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CITY

JOURNAL

Education:

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Janet Daley

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Foster Care's Underworld
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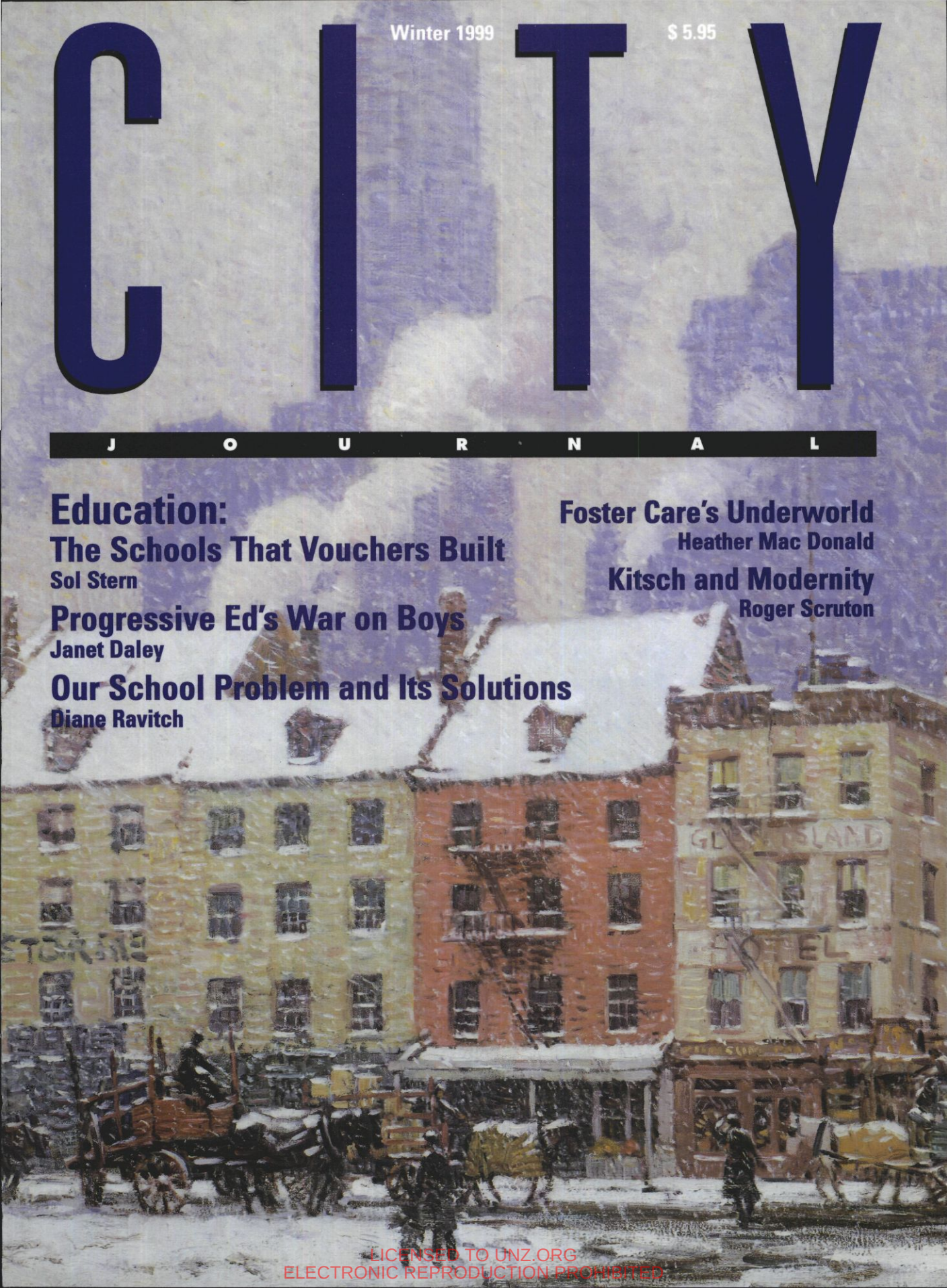

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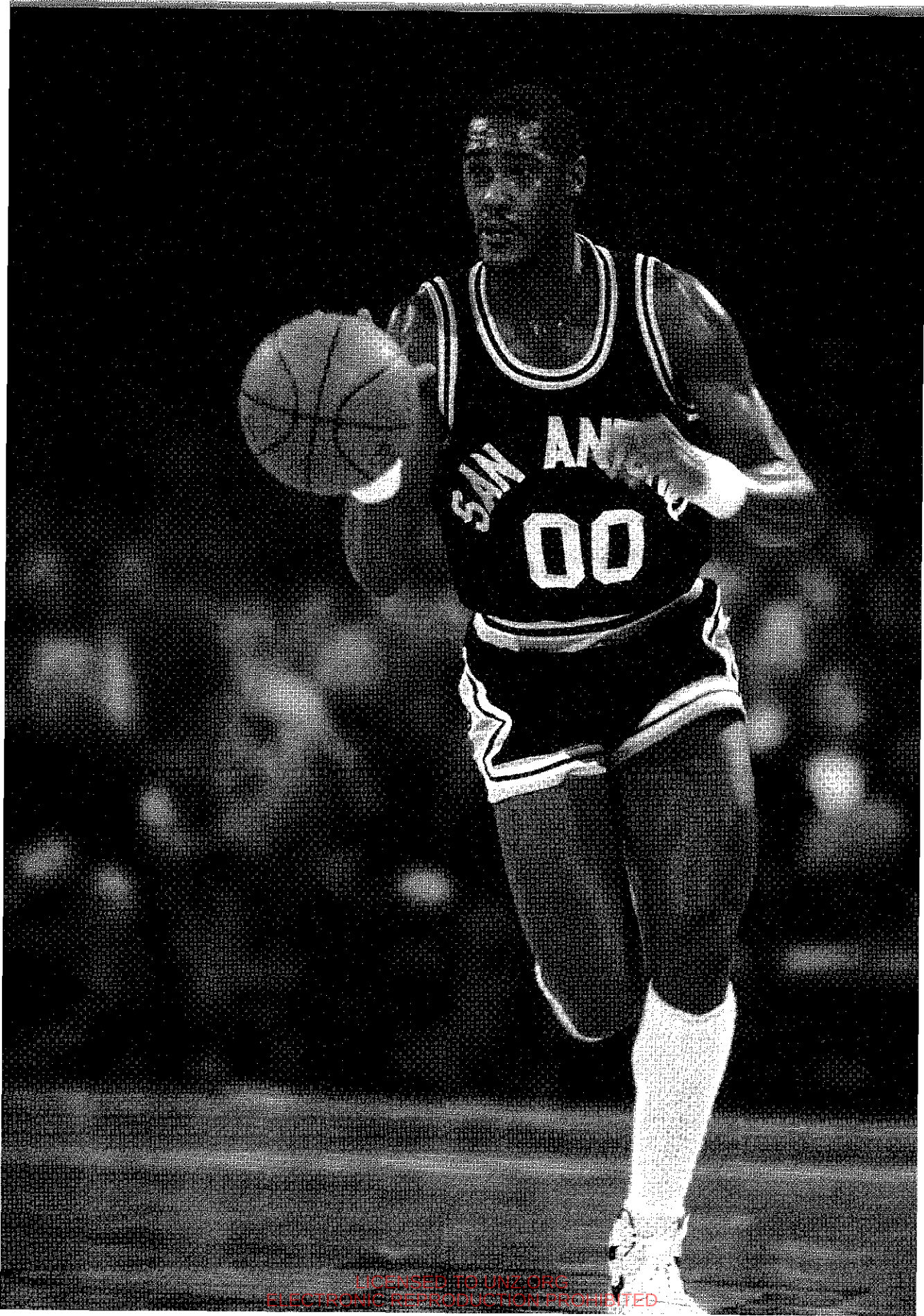

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Contents

Sol Stern	14	**The Schools That Vouchers Built** Now that Milwaukee and Cleveland have publicly-funded school voucher programs, we can see how vouchers work in practice. The verdict, after visits to four voucher-supported schools: a straight A.
Janet Daley	26	**Progressive Ed's War on Boys** In Britain, progressive ed banished competition and testing as harmful and elitist. Result: underachieving young males.
Diane Ravitch	33	**Our School Problem and Its Solutions** Education is more crucial than ever in today's knowledge-based economy, yet the public schools languish in mediocrity or failure. We can fix them through competition and tougher standards.
Heather Mac Donald	42	**Foster Care's Underworld** Foster care, with its traffic in abused and neglected children, has become integral to the inner-city economy. Advocates, who should be horrified, are eerily calm.
Brian C. Anderson	54	**How 211 Nobodies Strangle New York** For 25 years, New York's antidemocratic Legislature has been hampering the city's prosperity and quality of life.
Peter Reinharz	68	**New York's Protect-a-Thug Decree** Only New York's highest court could come up with a ruling that makes career criminals harder to convict than first-time malefactors.
	75	**Portfolio: Graphic New York**

Urbanities

Roger Scruton	82	**Kitsch and the Modern Predicament**
Stefan Kanfer	96	**And on the Right, Charles Dickens!**

Departments

	5	**In Prospect**
	6	**Soundings** Addicted to Addicts, Recivilizing SUNY, . . . and other matters.
Theodore Dalrymple	104	**Oh, to be in England** Tough Love
	110	**Letters**
	115	**Contributors**
John Leo	116	**Morningside Heights Diarist** Academic Freedom

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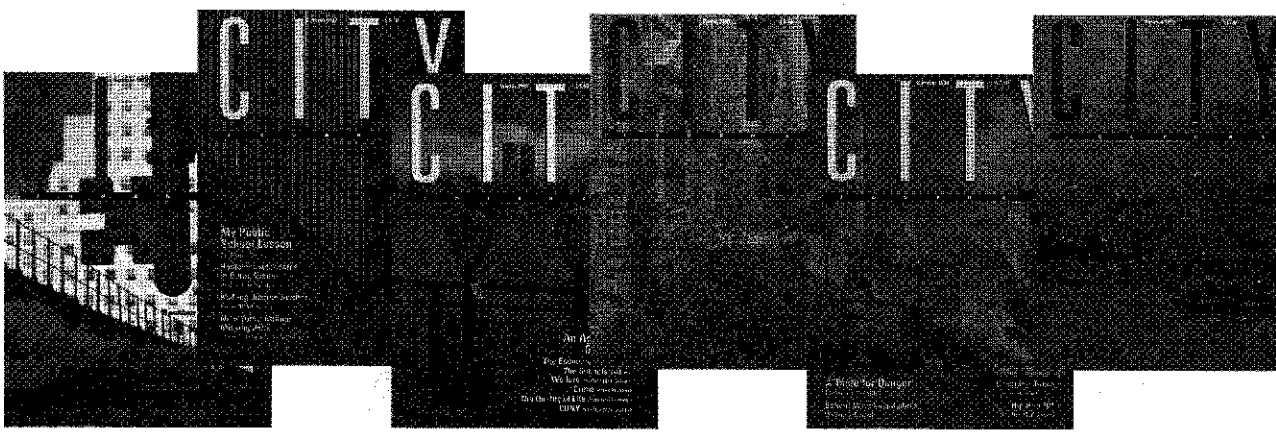

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In Prospect

Every few years around this time, some misguided soul pens an op-ed saying that *A Christmas Carol*'s Mr. Scrooge is a political economist of genius and that Dickens—like most left-wingers the op-ed writer assumes the novelist speaks for—is wrong to hold him up for execration. In fact, of course, Dickens was no lefty, as Stefan Kanfer shows on page 96. Quite the reverse: though he was a reformer, his reformism was rooted in a conservative worldview that cherished law and order, feared the mob, believed in private property, and supported capital punishment.

So what was Dickens trying to show when he criticized Scrooge for refusing to contribute to a Christmas fund for the poor, on the grounds that he had already paid his taxes and so had provided the poor amply with prisons and welfare? First, the poor whom Dickens has in mind are what the Victorians called the "deserving poor"—the poor who, Dickens says, "would rather die" than go on relief, who could use a temporary helping hand, not a permanent subsidy to idleness. Second, Dickens wants to show that government and the free market are necessary but not sufficient ingredients for a decent social order. Also required is the realm of "civil society." That realm includes private philanthropies like the Christmas fund in question; and in fact the philanthropy of Dickens and his contemporaries, taking a powerfully moral approach far beyond the capacity of government relief efforts, vastly improved the condition of Britain's poor during Victoria's long reign.

Civil society, to whose virtues *A Christmas Carol* is a kind of hymn, also embraces the institutions of the family and the business firm, within which individuals, through their mutual relations, endow their lives with meaning and humanity, making of themselves something more than animals with appetites or calculating machines with interests. How they do that is the lesson of the Cratchit family: Tiny Tim, a defective child who in Scrooge's worldview is part of the expendable "surplus population," is the focus of so much delicate concern as to make, as Dickens puts it, this poor family rich. And it is the lesson of Mr. Fezziwig, Scrooge's first employer: his kindness—having nothing to do with wages—can make his employees feel their jobs "a pleasure," while Scrooge's harshness toward his clerk makes that employee's job "a toil." This is a spiritual lesson, of a kind Roger Scruton explores further on page 82.

At the center of the book, and central to the point Dickens wants to make with Scrooge, the Ghost of Christmas Present shows Scrooge two "wolfish" and "menacing" beggar children, who are, the Ghost explains, Want and Ignorance. Mankind, he says, must ease their plight or suffer grave consequences, and it can't be done without something of that spirit—call it the spirit of Christmas—that Dickens evokes. Our own society has focused on alleviating Want, with distinctly mixed, not to say bizarre, results, as Heather Mac Donald describes in "Foster Care's Underworld" on page 42. Merely providing the material means of ending Want turns out not to be enough.

But at least Want of the starveling Victorian variety is gone from America. Ignorance is another matter. Despite the billions spent on public education, our schools have produced mediocre results—and, in our inner cities, notoriously unacceptable results—as Diane Ravitch relates on page 33 in "Our School Problem and Its Solutions." What's more, the schools' progressive-ed ideology has greatly harmed boys, in particular, as Janet Daley argues on page 26. She focuses on Britain, but her analysis is equally applicable to U.S. education.

The hopeful news, though, is news that Sol Stern brings back from the voucher-supported schools of Cleveland and Milwaukee. As he recounts in "The Schools That Vouchers Built" (page 14), an array of new private schools, products of civil society not of government, are educating just those poor, inner-city kids whom the public schools have served so ill. These schools work because they are infused with that humane spirit Dickens celebrates so unforgettably in the *Carol*; they make to children that moral, human, loving appeal that calls forth a human response—of the kind Dickens movingly depicted 155 Christmases ago. •

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Soundings

Addicted to Addicts

Mayor Giuliani's suggestion a few months ago that New York's methadone clinics should be closed has predictably drawn howls of rage—or is it fear?—from the many professionals who are nearly as dependent upon the drug as their patients.

Though New York requires methadone patients to receive doses on clinic premises—and thus avoids the excesses of England's policy, which allows them to take their dose with them, often only to sell it on the street—the controversy has uncovered a potential conflict between clinicians and policy-makers. The doctor's duty is to do what is best for his individual patient, and, confronted by a lawbreaking heroin addict whose life is a chaotic mess, he may see methadone as at least a partial answer. Considerable evidence exists that, in many cases, the regular prescription of the drug reduces heroin addicts' lawbreaking; and if they don't become upstanding pillars of the community, at least they cease being quite so destructive of themselves and others. This is a triumph of a kind.

By contrast, the policy-maker's interest is in the damage done to society by drug addiction rather than in the fate of individual addicts. He doesn't really care that a crime is motivated by Mr. B's drug habit rather than by Mr. A's, unlike Mr. A's doctor, who cares very much; and if methadone treatment accomplishes no more than to give you two addicts for the price of one—Mr. A to methadone and Mr. B to heroin—then methadone treatment appears to be a very bad bargain indeed, an additional cost rather than a saving. After all, with energetic dealers trying so hard to push their illegal wares, the supply of an addictive substance like heroin is bound to find its demand, even if some customers defect to methadone. Thus, proving that methadone is good for an individual is not the same as proving it good for society: and Mayor Giuliani's responsibility is for New York as a whole.

As with all social policy, a symbolic as well as a practical aspect is at work. The mayor wishes to signal that we should not think of drug addiction as an illness like any other; that a heroin addict who takes methadone is not like a diabetic who takes insulin, to repeat one doctor's fatuous analogy. Indeed, to treat addicts as if they suffer from something, rather than having chosen it, excuses their addiction and confirms them in it. There is nothing an addict likes more, or that serves as better pretext for continuing his present way of life, than to place the weight of responsibility for his situation somewhere other than on his own decisions.

Of course, the actual effect of any policy may turn out differently from what was expected. Experience forever provides us with nasty surprises: but that is as true for the mayor's opponents as for his supporters. One thing is certain: if the city put the mayor's ideas into practice, and if they worked, there would be universal mourning among the thousands of professional carers for addicts: for they are, in a manner of speaking, addicted to addicts. They can't get enough of them.

—*Theodore Dalrymple*

Sixtiesville

Hollywood has always been a steadfast partisan in the culture wars, but recently there have been signs of wavering. The highly acclaimed and potential Oscar nominee *Pleasantville* captures the feel of this transitional moment. Mostly, the movie is a predictable boomer sermon reminding us, to use Russell Baker's words, that "the fifties was the black hole of the 20th century." It tells the story of Jennifer and David, a teenaged brother and sister, who are zapped into the world of a fifties *Father Knows Best*-style sitcom.

Yes, at first, everything seems hunky dory. Mom provides a groaning board of comfort food at every meal, Dad comes home for dinner every night, people civilly doff their hats. But don't be fooled, director Gary Ross warns. As Jennifer introduces the unenlightened town denizens to sex—including, bizarrely, a mother of two—

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and David acquaints those same philistines with art and literature (improbably, since in his nineties home he couldn't be pried from the TV) the cheerful fifties mask falls away to expose the skeleton face leering underneath. We learn that the town is a haven for crypto-fascists willing to pay the price of censorship, emotional strangulation, bigotry, and enslaving conformity to ensure that Mom will put meatloaf on the table every night. So far, it's pure sixties agitprop.

Yet, Ross also permits a peek at the trade-off that comes after sixties liberation: in particular, the inept narcissism of contemporary parents. In one of the few geniune moments of the film, David and Jennifer listen as their mother argues bitterly over the phone with her ex-husband when he tries to renege on a custody arrangement that would deprive her of the chance for a weekend of mud baths with her younger boyfriend. So total is her childishness, that it is David who must dry his mother's tears and reassure her when her plans go awry, not the other way around.

Indeed, the failure of boomer parents is becoming a stock theme on contemporary kids' movies and TV. In one episode of *Buffy the Vampire Slayer*, the adults turn into sixties teenagers, singing "Louis, Louis" at a school dance, making out in their mini skirts and high boots, smashing up their cars. "This is not normal!" Buffy wails, as she wanders around what she calls this "Land of the Irresponsible." "I need an adult!" On *Daria*, a hip cartoon series for teenagers, the father sputters, "I told you I was no good at this parenting crap!"

You're never too young to get an education about the egotism of boomer parents. On the highly popular preschool cartoon series, *Rugrats*, three-year-old Angelica's mother is a power yuppie so negligent that her daughter threatens to sue her. In another episode, Angelica has a flashback to her birth. "It's a girl," her mother barks into her cellphone as her husband wheels her down the hospital corridor. "And her name is . . . ah . . . ah . . . what's her name again?"

SUSAN RUBIN(4)

"The sixties lose!" sneered an ad for *Daria*. It's not that simple, of course; but without question, something new is in the air.

—*Kay S. Hymowitz*

Merit Pay for Cops

Last spring, the Giuliani administration offered merit pay raises to cops on patrol who have done "an exceptionally good job." Up to 2,000 of the 12,000 patrol officers are eligible, and the city has budgeted almost $3 million for the program. Precinct commanders will decide how the money gets divvied up.

Sounds terrific, right? Not according to the Patrolmen's Benevolent Association, the city's largest police union. Just like the teachers' union, which has frowned on the idea for years, the PBA flatly opposes merit pay. In typical union-speak, the PBA claims that commanders can't be trusted to rank the people under their command. The real union fear, of course, is that, if merit pay becomes the criterion for reward, all cops will have to hustle, the least competent will find their union-guaranteed job security in jeopardy, and the union's pay-setting power will shrink.

Merit pay for good cops is a great idea. It sets in motion a change in the NYPD's institutional culture that could outlast the Giuliani years. Cops would be all the more likely to concentrate on, and work even harder to achieve, the proper end of police work: making the public safer.

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Soundings

At the PBA's urging, many cops have turned down merit pay. Cannily, the city is sending the extra money home to their spouses, figuring they'll hold tight to it.

Let's pay our cops what they're worth—recognizing that they're not all worth the same.

—Peter Reinharz

Recivilizing SUNY

In December, the State University of New York's trustees did something shocking: they voted to approve a required core curriculum. The new curriculum, which will kick in two years from now, requires the 150,000 students in the university's four-year schools to take core courses in American history, foreign languages, math, natural science, Western Civ, and other subjects.

Anyone familiar with today's higher education knows that undergraduate instruction is a haphazard affair, with few requirements for broad survey courses in basic subjects like literature, history, and science. Where requirements do exist, students often can fill them with fluff like "The Global Leisure Experience" or "Magic and Witchcraft" or, even worse, with politicized nonsense. By contrast, SUNY's 30-credit core sets down a solid liberal arts foundation, in principle making the rest of a student's educational program sturdier by giving him a base to build on. Board of Trustees Chairman Thomas F. Egan rightly declared that general education "prepares students for . . . economic success," furthers "their social and cultural advancement," and "lays a foundation for fulfilling and productive lives."

Yet so out of touch are many professors with the idea of general education that one SUNY Faculty Senate member mocked the new curriculum as "probably the best idea of 1955. This is just like going to high school." The professor's dripping sarcasm warns us about the potential limits of the SUNY reforms. The real culprits in the gutting of academic standards are the sixties-spawned faculty, wedded for decades now to radicalism and relativism. "How much of an improvement will we see," one skeptical prof asked, "with mandatory Western civilization courses taught from a wildly revisionist perspective?" But SUNY's trustees have at least made a start at restoring the university to sanity—no small achievement.

—Carol Iannone

Labor Pains

It's hard not to feel a little *schadenfreude* over the travails of New York City's District Council 37, the nation's most famous civil service union, representing 100,000 city workers. Insurgent members charged the union with ballot fraud—correctly, it turns out—in a 1996 vote that produced a lopsided victory for an unpopular five-year contract with the city that promised a two-year wage freeze, followed by raises adding up to 11 percent. After District Attorney Henry Morgenthau's office, investigating the union, uncovered a "vast pigsty of corruption, self-dealing, lavish party going, and vote rigging," the union's parent, the American Federation of State, County, and Municipal Employees, placed it under trusteeship. The whole affair is a big, and ugly, mess.

Union reformers argue that the rigged vote hurt DC 37's members, and that the city has a moral obligation to compensate the union. But neither part of the argument holds water. The contract did give the city five years of labor peace, letting the mayor get on with other things, but had Giuliani, a pugnacious negotiator, really gone to the

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mat with DC 37, the union might have gotten the worst of it. Union defenders also act as if DC 37's members are ruthlessly exploited sweatshop workers, but who oppresses them? Enjoying fat salaries, ever-inflating pensions, and a thick bundle of other benefits, Gotham's municipal workers are the pampered lords of the city. And the notion that the city owes the unions anything in this debacle implies City Hall was party to the fraud, a scurrilous lie.

In fact, the true injustice is the enormous power unions wield in the city. Labor costs make up half of Gotham's crushing $33 billion budget and threaten the city's future prosperity, since they necessitate business-killing levels of taxation. If Gotham is going to compete economically in the twenty-first century, those inflated costs have to come down by an order of magnitude.

Mayor Giuliani recently signaled that he grasps how heavily the unions' weigh on New York City's budget and economy. In the wake of the DC 37 scandal, he has vigorously resisted calls to reopen contract talks or to reimburse the union. And at a recent talk at a Washington, D.C. urban conference, the mayor raised the prospect of "a revolution" in city contracts during the rest of his term. "We're going to require a lot more productivity from the workforce in order to justify raises," the mayor warned.

Let's hope the mayor succeeds. If he does, New York City will have delivered a powerful message: unions aren't free to do as they please at the expense of the common good.

—Christopher Atamian

It's Culture, After All

For months, William G. Bowen and Derek Bok's new book, *The Shape of the River*, which defends racial preferences, has dominated the national debate over affirmative action. Several scholars have cast doubt on the book's methods and objectivity, but the press and much of the general public remain enthralled—and cowed, perhaps, by the authors' voluminous statistical evidence. Meanwhile, a far better book, *The Black-White Test Score Gap*, edited by Christopher Jencks and Meredith Phillips—also, significantly, liberal academics—has gone unnoticed.

To be sure, Jencks and Phillips defend preferences. But the editors don't shrink from describing the gap of their book's title in all its gut-wrenching magnitude—showing an intellectual honesty rare among preference supporters. Here are two disturbing measures of the black-white testing gap the editors present: before kindergarten, the average black child already scores below 75 percent of his white peers; white high school seniors are ten times more likely than blacks to score in the top tenth of test takers.

The 14 papers Jencks and Phillips assemble help clear the way, at last, for a serious discussion about the black performance lag. Among the collection's critical findings: the SAT fairly and accurately predicts future academic success; "the average black child and the average white child now live in school districts that spend almost exactly the same amount per pupil," so money alone won't solve the problem; and, other things being equal, black teachers seem to do no better than white teachers in helping black students perform better. Most important, the authors observe that closing the test-score gap will make preferences unnecessary.

How do we eliminate the gap? Jencks and Phillips adamantly insist that no evidence exists of genetic intellectual differences among races, and they make several suggestions about how schools can improve black scores, primarily by hiring better-qualified teachers with higher expectations. But the black-white gap is rooted in culture as much as it is in education, they suspect, and it won't close without a major change in entrenched habits and attitudes—changes in black parenting, changes in black attitudes toward mainstream success, changes in the way too many black students respond to the challenge of school.

A sobering diagnosis—and all the more important coming

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from liberal academia, which has been so reluctant to seem as if it were "blaming the victim" in matters of race. Just how to change cultural attitudes isn't clear. But there's no better starting point than a national consensus on what the problem is, and this important book shows that it may be forming.

—*Tamar Jacoby*

New Yorkers Hate Bilingual Ed

For 25 years, California's indefensible bilingual-ed system forced many of the state's 1.3 million non-English-speaking children to take their classes in their native tongue, guaranteeing that few became proficient in the English they need to succeed in America. No more: in June, Californians overwhelmingly supported Proposition 227, a ballot initiative junking the system in favor of public school kids being taught English as soon as they enroll. But, at least if we believe a recent front-page article in the *New York Times*, bilingual ed is so wildly popular with New York's parents, politicians, and voters that the Empire State actually plans to *expand* it.

Recent polling data, however, tell a strikingly different story about what New Yorkers *really* think of bilingual ed. In late October, the respected polling firm Zogby International asked 1,411 likely New York voters if they would support a law "which would require all public school instruction to be conducted in English and for students not fluent in English to be placed in an intensive one-year English immersion program." The results were astonishing: 79 percent said yes, while only 14 percent said no. Support was broad and deep: 87 percent of Republicans and 72 percent of Democrats agreed with the proposed law, Hispanics favored it by a two to one margin, and 75 percent of city voters gave thumbs up. The survey's large size greatly increases the reliability of these numbers.

Clearly, contrary to the *Times*'s assertion, there's a hidden sea of popular discontent with New York's bilingual-ed system. How to capitalize on it, though, to change the system? Unlike California, New York State doesn't allow citizen initiatives, and getting one launched in New York City—which does—is difficult and costly. The best route would be for a leading New York political figure to focus a re-election campaign on liberating New York's public school kids from bilingual ed. Governor George Pataki, Mayor Rudy Giuliani, and former Bronx borough president Herman Badillo are education reformers all, and each has strong pro-immigrant credentials to protect him from charges of immigrant bashing—the preferred tactic of bilingual ed's fierce defenders. Any one of the three could successfully make the argument that immigrant kids need to learn English fast and thoroughly if they're to succeed in America, and that bilingual ed doesn't do the job.

New York's Latino and Asian schoolchildren deserve the same chance to master English that teachers once gave to millions of Italian and Jewish and Greek immigrant kids, opening for them a future of opportunity.

—*Ron K. Unz*

Common Census on Crime

Over the past three decades, urban flight robbed cities of their most ambitious and entrepreneurial taxpayers, leaving many urban neighborhoods—and whole swatches of cities like Detroit—boarded-up wastelands. But what caused the massive exodus to the suburbs? Though some blame racism, hard evidence now shows that the real reason is increased crime.

Economists Julie Berry Cullen of the University of Michigan and Steven D. Levin of the University of Chicago have authored an exhaustive study relating changes in crime rates to changes in population for more than 100 U.S. cities since 1970. The two economists, controlling for other factors, found that every 10 percent rise in a city's crime rate produces a 1 percent population loss. Roughly, that works out to one less city resident for each reported crime. Most of crime's

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impact on city population results in people packing up and leaving, rather than in a smaller number of new residents moving in—perhaps because current residents know the real threat of crime from living close to it. Race made little or no difference in city dwellers' decisions to move, Cullen and Levin discovered.

As to who is most likely to leave, it's folks (of all colors) with higher education and young families—exactly the demographic group that provides a city's sturdiest tax base. They rarely move out of the metropolitan area, and most of them continue working in the city, the authors found; but their tax dollars, and civic input, are lost to it.

Cullen and Levin's research strongly suggests that Mayor Giuliani's inventive anti-crime efforts, which have helped cut Gotham's crime rate by 44 percent, keep New Yorkers more firmly rooted in the city. New policing programs, like sending squads of cops into drug-infested neighborhoods to drive dealers out, or even simple crime-control methods like installing video cameras in parks, could re-invigorate now-blighted neighborhoods, making them more attractive to those who want to stay in town, and perhaps even encourage some of those who have left to come back.

—Peter Reinharz

A Successful Experiment

Psychiatrically ill homeless people wander through New York City's streets in such sad profusion for a reason: New York doesn't have an outpatient commitment law. Outpatient commitment lets people with severe psychiatric disorders live in the community if they comply with the prescribed treatment that prevents their illness's symptoms from recurring. But if they don't take their medication—which often happens, since nearly half of the mentally ill don't realize they're sick—outpatient commitment means they can be returned to the hospital involuntarily.

Studies of outpatient commitment in Arizona, Iowa, North Carolina, Ohio, Washington, D.C., and now New York, where a pilot program has just ended at Bellevue Hospital, have proved it an excellent means of keeping mentally ill people well. A Policy Research Associates study of Bellevue's program discovered that patients on outpatient commitment took medication more regularly and were less likely to be homeless or to become violent. An outpatient commitment law would also have kept Larry Hogue, the homeless and psychiatrically disabled "Wild Man of West 96th Street," from waging a seven-year campaign of setting fires and threatening passersby on the Upper West Side.

In February, the New York State Legislature will have an opportunity to extend the Bellevue program to the entire state. It should do so. As the Treatment Advocacy Center's D.J. Jaffe argues, we prevent people with Alzheimer's disease from living on the streets, since we understand they can't take care of themselves, just as we mandate treatment for those suffering from tuberculosis, because they pose a risk to other people; "People suffering from the debilitating effects of neurobiological brain disorders deserve no less," Jaffe concludes. Predictably, the New York Civil Liberties Union opposed Bellevue's program as an infringement of patients' rights, and they will oppose its extension. But the legislation offers the best chance New Yorkers have had to help pyschiatrically ill homeless people, while at the same time improving the city's quality of

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life by keeping future Larry Hogues either on their medication or off the streets.

—*E. Fuller Torrey*

How Not to Fix Schools

New York City's Board of Education wants to spend $11 billion to repair 231 crumbling public schools and build new classroom space—primarily in Queens—for 74,000 additional students. It's a bad idea. Not that the city's public schools don't need fixing: overcrowded classrooms, gas leaks, and cracked floors are commonplace. But the Board of Ed's plan will be a high-priced fiasco if the School Construction Authority spends the money.

Like its predecessor, the Board of Ed's Division of School Facilities, the SCA has failed miserably. As its second five-year mandate closes, the authority has completed only one-third of its big repair jobs, and it is infamous for dangerously shoddy work and lax safety at building sites. Cost overruns and wildly miscalculated estimates have needlessly bled the city budget of tens of millions of dollars. (See "Why New York Can't Build Schools," Spring 1998.)

Dale Hemmerdinger, president of ATCO Properties and Management, sums up the SCA's biggest problem: "As it stands, there's no economic incentive involved—no one is held responsible if something goes wrong, and no one benefits if things go right." Like all unaccountable bureaucracies, the SCA sags heavily with apathetic workers. And despite claims to the contrary, the SCA only apparently escapes the pernicious Wicks Law, which forces public agencies to subcontract needlessly, jacking up expenses nearly 30 percent and guaranteeing delays in trying to coordinate different contractors. Giving billions to the SCA guarantees a prodigious waste of money and continued failure.

So how do we fix Gotham's decrepit schools? The Board of Ed should adopt a "turnkey" model of public contracting. In a turnkey system, the board hires a private-sector developer to build a school, with all the efficiencies private developers enjoy. When the job is done, the developer hands over the front door key to the Board of Ed. If the board likes what it sees, it can reward the developer with new contracts—a healthy incentive to work efficiently and for a fair price.

—*Christopher Atamian*

EXTRA! CEOs Earn More Than Us

Omigod, the union-backed Fiscal Policy Institute of New York, headed by former New York State Assembly staffer Frank Mauro, has established a shocking fact: the salary of chief executive officers exceeds the earnings of waitresses, cashiers, and janitors. In fact, there's a "vast discrepancy between CEO and worker pay," as their new study indignantly puts it. Now, it's truly astonishing that such a thing could happen in a political system whose constitution promises "from each according to his ability, to each according to his need." Oops, wait: wrong system—that's communism. Still, even if it's not in our constitution, surely there are means to end this gross injustice? Happily, the Fiscal Policy Institute—along with two national organizations, Jobs with Justice and the National Priorities Project—supplies us with "four practical strategies for closing the gap between CEO and worker pay."

We must increase the minimum wage and index it to inflation. Next, New York needs a law to make companies

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that receive public tax subsidies and contracts pay a so-called "living wage" to their workers. Third, workers must have guaranteed union representation. Last, federal legislation should punish companies whose executive compensation surpasses 25 times the pay of their lowest-paid full-time subordinate. If a company paid its workers the full "living wage" that the Fiscal Institute recommends—$36,583—the most its CEO could make without the firm being punished would be $914,575.

But the magnitude of a CEO's compensation isn't a function of the degree to which he exploits his workers, as the institute's analysis presumes. On the contrary, though some supine boards heap rewards on chief executives who don't perform, high salaries usually reward the good management and strategic innovation that make a company prosper—and protect its workers' jobs.

If the Fiscal Policy Institute truly believes that the level of workers' wages aren't higher than they are because CEOs are scooping up cash that should go to their employees, then why stop at a "living wage?" Instead of squashing CEO earnings so that they're closer to the level of ordinary workers, why not declare that everybody be paid CEO-level salaries? Why not make the minimum wage $1,000 per hour, so that everybody can be a millionaire? Oops, now there are no more jobs around. All the minimum wage does is tell us that it's illegal to employ anyone whose services are worth less than the minimum wage. Raise it, and you simply increase the number of workers whom companies are forbidden to hire.

If the Fiscal Policy Institute's strategies were ever put into practice, the cost of doing business in New York would become so cripplingly high that workers could enjoy the promise of opulent wages—but they'd never get a job.

—*Wendy Shalit*

In-Your-Face Ads

In a November *New York* magazine article, "Uncivil Rights: Pro-Choice Counterstrike," journalist Nina Burleigh—notorious for writing that she would gladly "service" President Clinton *à la* Lewinsky to thank him for keeping abortion legal—cast a fawning eye on an aggressive new abortion rights advertising campaign sponsored by the Pro-Choice Public Education Project, a gaggle of major feminist groups. To design the campaign, the group hired the DeVito and Verdi ad agency—the same firm that riled Mayor Giuliani with bus-front ads touting *New York* as: "Possibly the only good thing in New York Rudy hasn't taken credit for."

The pro-abortion ads are up all over the city now, and they're at once visually jarring and deeply troubling. One ad states, "Of all the things from the 70's [sic] to make a comeback, there's one we really hate to see." Beneath the text, we see, lined up from left to right, a Volkswagen bug, a lava lamp, a platform sandal—and a coat hanger. Another ad shows a group of middle-aged men in business suits, frowning. Beneath them, the text informs us that "77 percent of anti-abortion leaders are men. 100 percent of them will never be pregnant." In a third ad in the series, a young woman sporting a tattoo and a nose ring sullenly stares out at the viewer, and the copy reads: "Think you can do whatever you want with your body? Think again."

What's wrong with the ad campaign? Like Burleigh's abject offer to the president, it places this contentious issue outside the realm of reason and decorum. The abortion debate is just that: an argument, not a war. The idea shouldn't be to win by any means necessary but to try to seek, and find, the truth. Far from searching for truth, the ads appeal to young women's basest instincts—fear, anger, and a childish resentment of authority—as if reason no longer applied to thorny moral controversies. Once we give up on reasoned argument, though, what invariably replaces it is propaganda, seduction, and growing incivility. Debate degenerates into gladiatorial combat, and everybody loses.

—*Norah Vincent*

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The Schools That Vouchers Built

Sol Stern

Now that Milwaukee and Cleveland have publicly funded school voucher programs, we can see how vouchers work in practice. The verdict, after visits to four voucher-supported schools: a straight A.

Recently I went to Milwaukee and Cleveland, the only two cities in the country with publicly funded school voucher programs, to visit four (among the more than 100) schools that have accepted voucher students. School voucher proponents—myself included—have argued that providing tax-funded scholarships for low-income pupils to use in any private or religious school would rescue thousands, perhaps millions, of children presently trapped in failing inner-city public schools and would lead to the creation of thousands of innovative new schools. In addition, competition from voucher-supported schools would challenge the public education system from the outside, forcing it to reconsider its own hidebound ways. That's the theory: now that these two cities had made it possible, I could hardly wait to see what actually happens in practice.

What I saw was exhilarating. No one who has spent any time at these schools could fail to be impressed by their orderly, energetic atmosphere and solid academic achievement—all the more impressive when compared with the violent, dysfunctional inner-city public schools that were the alternative for these children. Moreover, the schools I saw couldn't have been more different from one another: they ran the gamut from an evangelical Christian academy and an independent Catholic high school to a secular elementary school with a Hispanic cultural theme and a secular school with a strong focus on computer technology.

What these inspiring schools had in common was that, at their creation, their founders and many of their staff did not qualify as professional educators. They did not have degrees from the education monopoly's prescribed ed schools or credentials issued by government education boards, and they certainly did not belong to the monopoly system's teachers' unions. Yet every one of these outsiders had all they needed to educate and inspire children—a sense of mission, a willingness to work long hours for little pay, and common sense about the discipline and the core knowledge that inner-city children need in order to succeed. Unconstrained by the official school system's suffocating bureaucratic regulations, they were able to develop an entrepreneurial, problem-solving approach that helped overcome hurdles likely to sink any rule-driven public school.

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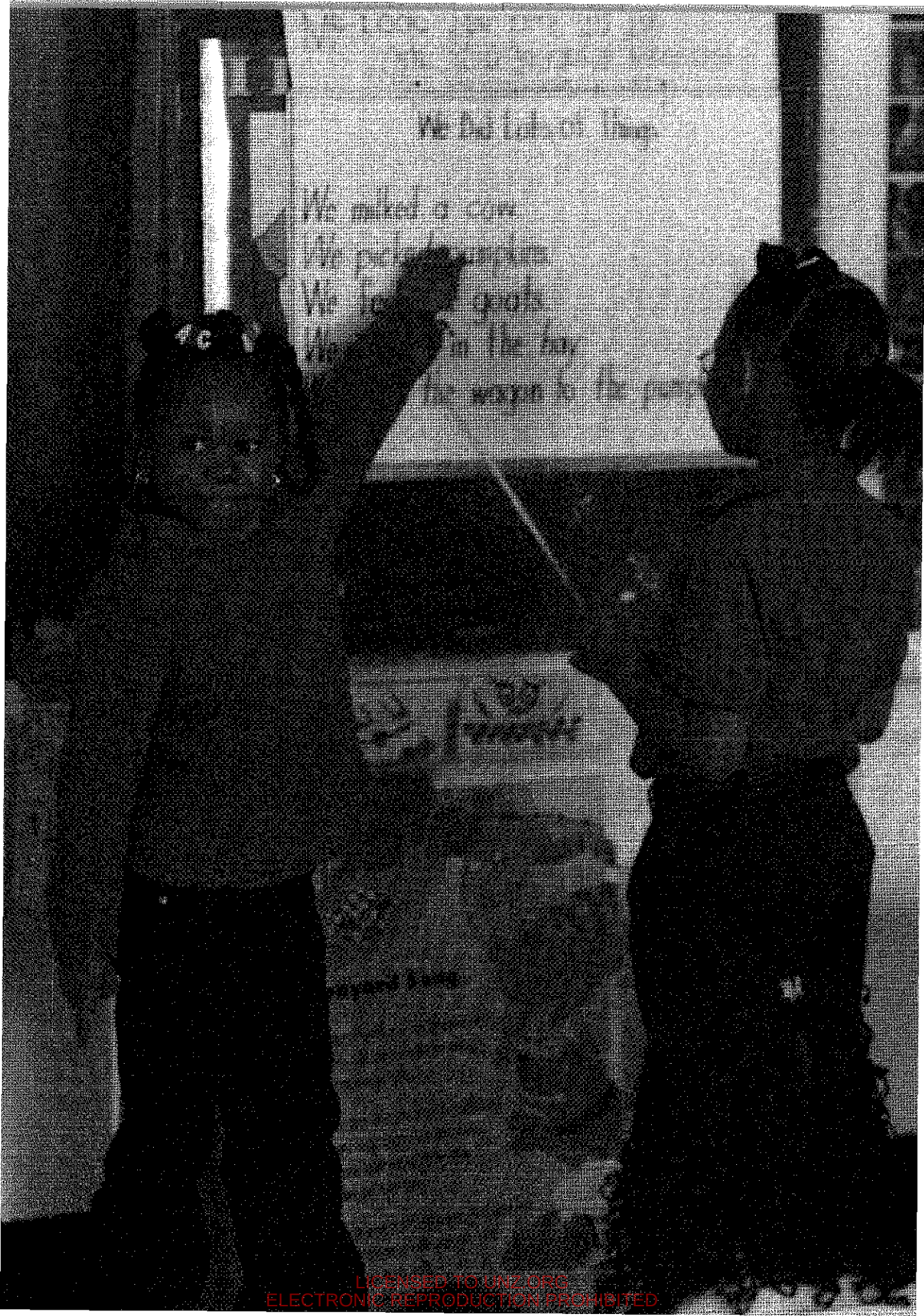
Photographs by John Sibilski/Black Star



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The education establishment is as frightened by these schools as I was impressed. No wonder.

Look first at the Believers in Christ Christian Academy, which lights up a desolate, predominantly black Milwaukee neighborhood. At this school, everyone arrives very early and stays very late. By 8 AM, the children, staff, and many parents have filled the basement auditorium's plain folding chairs for an assembly that is part gospel-singing prayer meeting and part academic pep rally. Up on the stage, three parents form a makeshift orchestra that accompanies the hymn singing on two pianos and a tambourine, while at the lectern, swaying to the hymns and exhorting the children to work hard in their classrooms that day, is the school's founder, a tall, attractive, African-American woman named Cheryl Brown. Invoking the scriptures, she reminds the children, all of them black and from the city's worst neighborhoods, that they were made in God's image. "No matter what anyone tells you and no matter what messages you hear from society, you can each achieve great things," she exhorts them. "But you have to work for it. Are you going to work hard in your classes today?" she demands. "Yes!" the children shout back in unison. "No excuses," she intones again and again.

To teachers' unions, giving poor kids tax money to go to Brown's school is a stain on the Republic. Never mind that her kids are learning.

Cheryl Brown's school is the teachers' unions' worst nightmare. According to the union-led anti-school-choice coalition, the problem with vouchers is that they are likely to cream off the best and brightest kids presently attending inner-city public schools, leaving only the most disadvantaged and academically unprepared children. Yet almost in the same breath, opponents of vouchers contend that those "cream of the crop" children and their parents are too stupid to avoid being victimized by educational charlatans. Dire warnings about "witchcraft" schools, "Farrakhan" schools, and "creationist" schools greedily waiting to get their hands on voucher money have been stock features in the teachers' union propaganda.

Well, Believers in Christ is a "creationist" school. The people running it believe in the literalness of the Scriptures, and they don't separate their faith from their role as educators. Bedecking the hallways and every classroom are posters that proclaim such inspirational messages as "I can do all things through Christ" and "God gave me a brain." Many teachers expound the biblical story of creation in the classroom. Cheryl Brown herself teaches biology, and in that class, she told me, she offers her students a perfectly mainstream scientific account of DNA and RNA, while also telling them: "God created everything; it all began with him. Science can't contradict that. Science can explain how everything works physically in relation to everything else." I watched Reginald Johnson, a young African-American with a degree in physics from Xavier University, teach seventh-graders a fairly sophisticated lesson on black holes. Later I asked Johnson, who is an evangelical Christian, whether he also teaches the children the biblical version of creation. "Sure," he said. "I don't see it as a conflict. It's going to make them stronger adults. When they get to college and all through life, they will have to reconcile their faith with science."

"We absolutely believe in our faith," Cheryl Brown explains, "but we also believe that there is a body of knowledge that our children must know in order to survive in the real world." Brown is adamant that if the condition of receiving voucher students were that she had to separate Believers in Christ's religious teachings from the rest of the school's educational mission, she would instantly forgo the vouchers. "This is who we are," she said.

The teachers' unions believe that giving poor kids tax money to go to Cheryl Brown's school is a stain on the Republic. Never mind that her kids are learning something, that they might actually stay in school. Never mind too that nothing in the school's curriculum has been imposed on the parents—

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unlike the public school parents who have had graphic and inappropriate sex education lessons or texts such as *Heather Has Two Mommies* inflicted on their children against their will.

Cheryl Brown never recruited any unsuspecting children into her school. Rather, the school was called into existence by the community—by minority parents who felt that the public schools were trashing their most cherished values as well as their children's futures. Eight years ago, Brown was a director of nursing at Milwaukee County Hospital. At the time, she was also a lay pastor for Believers in Christ, an independent evangelical congregation started as a Bible study group a few years earlier. For two years, Brown had been running a six-week summer school for the children of the congregants and other poor families in the neighborhood. So successful was the summer program—and so dysfunctional were the regular Milwaukee public schools the children would have to return to in the fall—that many parents told Brown that they were determined not to send their children back. They begged her to start a year-round school. She agreed to give it a try. Within a year she had resigned her job at the hospital and was embarked on her new career as an educator.

It was a rocky start. Space wasn't a problem, because the ministry had already leased an abandoned Catholic school from a nearby parish for a modest rent. But there was almost no money for books or teachers' salaries. Brown recruited parents as volunteer teachers, and she herself took no salary the first few years, subsisting on savings and offerings from the church. Most of the parents were too poor to pay more than $50 a month in tuition.

"We felt it was our mission, our personal responsibility," Brown told me. "We just trusted that somehow our needs would be met." One of the parents explained further: "We stuck it out because we felt our children would escape the violence and lack of religious values" of the Milwaukee public schools. When this parent mentioned religious values, I took her to mean something that went beyond religion, too. She also meant, as I understood her, that the public schools had abandoned the most rudimentary values of them all: the very idea of a shared civility and reverence for higher aspirations that all parents, secular ones included, should be able to endorse.

As Brown had trusted, the school's needs *were* met. In 1990, the Wisconsin State Legislature passed the Milwaukee Parental Choice Program, the first publicly funded voucher program in the country. The lawmakers initially restricted the program to 1,000 low-income Milwaukee public school students, who could use the vouchers only at nonreligious private schools—which didn't include Believers in Christ. But the new legislation prompted an organization of philanthropists called Partners Advancing Values in Education (PAVE) to launch a private voucher program that poor children could use in religious schools, enabling Believers in Christ to get, for the first time, a number of customers paying something like full tuition. Then, three years ago, the Wisconsin Legislature expanded the Milwaukee voucher program to include up to 15,000 students and allowed them to take their tuition vouchers to religious schools. This year, half of Believers in Christ's 250 students are carrying public vouchers worth $4,900 or the per-pupil cost of the school (whichever is lower), and a couple of dozen still have PAVE vouchers. That allowed Cheryl Brown to begin to pay her teachers and herself real salaries and meet some of the school's other basic financial needs.

Even so, Brown still hires her staff not on the basis of state credentials or education courses but on other vital qualifications. "We want people who are committed to children and to values," she explains. "We want staff here who view this school as a mission in life. I believe that if you are committed to children and love them, they will respond and learn anything."

All the classes I visited kept a sharp focus on a traditional, skills-based curriculum. The fifth-grade class I watched was typical. The children were working over a map of the United States with the place names removed. They eagerly showed off their knowledge of the states and their principal cities. Each of the 20-odd children was engaged, polite, enthusiastic, and informed. Unremarkable,

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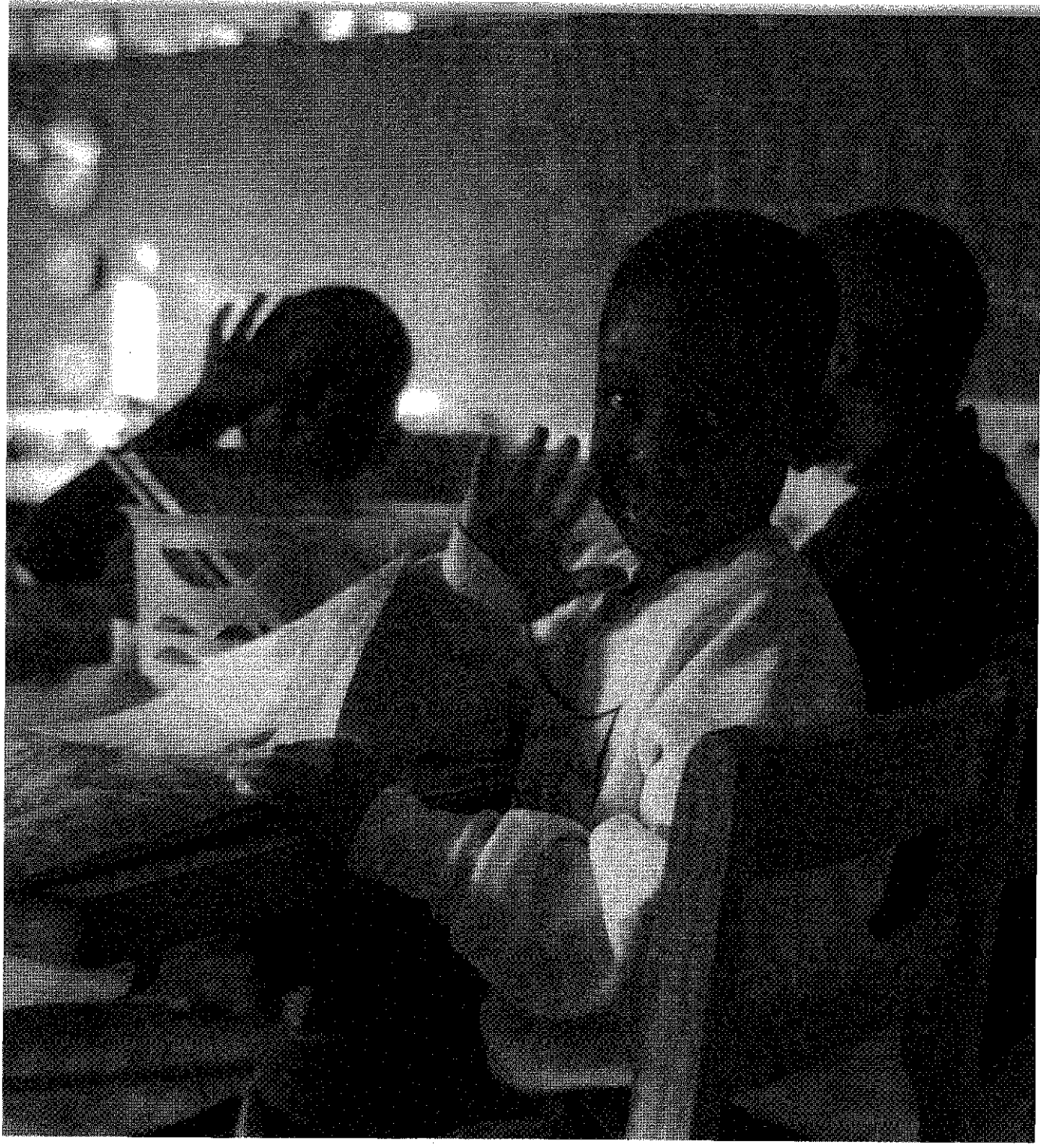

Low-income students at voucher schools like Milwaukee's entirely black Believers in Christ . . .

you might say; isn't this what schoolrooms are supposed to look like? But anyone who has been in an inner-city school in the past generation knows how exceptional, and precious, such a scene really is.

These children are much more likely to become productive citizens than if they had remained in the public schools. Reams of social science research demonstrate that children involved in faith-based institutions are less likely to drop out of school, to end up as teenage parents, and to get caught up in the criminal justice system. Four of the first five graduates of Believers in Christ have already gone on to college. Considering the staggering 80 percent dropout rate among black males in the Milwaukee public schools, who can say that these parents made anything but an excellent choice for their children?

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Just as Cheryl Brown was called into urban education by poor, minority parents desperate to save their children so too was Brother Bob Smith. When Smith, an African-American, took his vows as a Capuchin friar almost 20 years ago, the last thing he ever thought he'd be doing was running an inner-city high school. After graduating from Wayne State University in Detroit with a degree in criminal justice, he did his first service for his order as a youth worker and then taught social studies and economics in a Catholic high school. He arrived in Milwaukee in 1984, just when an inner-city Catholic archdiocesan high school named Messmer was going through a crisis. Its run down neighborhood abandoned by the white ethnic former parishioners, Messmer now had a predominantly black, largely non-Catholic student population, whose parents had difficulty paying the tuition.

With almost no warning to parents and staff, the Milwaukee Archdiocese abruptly decided to stop making up Messmer's growing deficits, and, right in the middle of the spring 1984 semester, it closed the school. Determined not to send their children to public schools, many parents refused to take no for an answer. They organized a Save Messmer committee. After surveying the available talent, the parents' committee turned to Smith to lead the efforts to save the school and to become its new principal. Then all of 27 years old, he had offered Messmer his services as a teacher, but he had zero experience as a school administrator.

When I met him, still only 41, he reminisced about his 14 years of successful struggle to rebuild Messmer into one of the Milwaukee area's premier high schools. "For years, we just lived hand-to-mouth," he recalled. "The parents worked as volunteers in the business office, in the cafeteria, all around the school. Some of them even took out second mortgages to help cover the payroll. At one point we were half a million dollars in debt." With a trace of bitterness, he remembered that the Milwaukee Archdiocese not only refused to offer any help in getting Messmer on its feet again but denied it the right to advertise itself as a Catholic school.

All around Smith's office are testimonials to Messmer's resurrection—plaques honoring students for outstanding academic performance, photographs of such visiting notables as William Bennett and George Will, and copies of laudatory newspaper articles about the school. But the acknowledgment that Smith cherishes most is the Milwaukee Archdiocese's April 1998 decree recognizing Messmer once again as a Catholic school. The signer of the decree: the same Archbishop Rembert G. Weakland who had ordered Messmer closed in 1984.

Smith rebuilt Messmer on a foundation of excellence and accountability, for students as well as staff. He took no student solely because he or she could pay or came with a scholarship, and he turned away no student solely for lack of funds. Every student he accepted had to make a firm commitment to strive for academic excellence and to complete the school's very demanding curriculum, which requires every student to take many more courses in math, science, and foreign languages than most of Wisconsin's affluent suburban high schools require. As for the teachers, says Smith, "We looked for people we considered the best, the most knowledgeable, the most committed, whether they had state teaching credentials or not."

Every student he accepted had to make a firm commitment to strive for academic excellence and to complete the school's demanding curriculum.

One of those teachers is 32-year-old Jeff Monday, another first-class educator hired without any graduate education-school training. "Jeff is the only person I ever hired on the spot," Smith says. "There were people with teaching credentials and more experience, but I have never met anyone with a greater sense of mission." Eight years ago, Smith decided to groom the young math teacher to become Messmer's next principal, so that he him-

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self could focus on fund-raising. Two years ago, Monday took over as principal, and Smith became Messmer's president. Since then, Smith recounts, Monday has been recognized as one of the most talented high school principals in the state and has turned down high-paying offers from other private schools.

Monday's starting salary as a math teacher was $13,000. As principal, he still makes far less than the top salary paid to teachers in the Milwaukee public schools. He routinely puts in 70- to 80-hour weeks. Monday's own Catholic education is part of the reason that he is making the financial sacrifice. "What also inspired me about Messmer," he says, "is the sense of mission here, of working with poor students yet holding them accountable and helping them strive for excellence. We are not in the business of making excuses or allowing the kids to make excuses for themselves."

The secret is the inculcation of a culture of civility, through sensible rules enforced fairly and consistently.

You can see evidence of the school's sense of decorum and seriousness everywhere throughout the ornate building—even in the cafeteria. Look at a typical inner-city public school cafeteria, and you will see everything that's wrong with the system. The room is generally the noisiest, tensest place in the school building. To keep the students from erupting into violence, burly security guards and a platoon of other teachers and aides are usually on patrol. Central school district employees serve the unappetizing meals mess-hall style. At Messmer, by contrast, a variety of outside vendors, including Pizza Hut, have set up several food stations. The students—from very tough, very violent neighborhoods—line up quietly and pick their favorite foods. Students working part-time are behind the counters or manning the cash register. Not a single security guard or faculty member is in the cafeteria to enforce order—an amazing sight to a regular visitor to urban public schools.

The secret is the inculcation of a culture of civility, through sensible rules enforced fairly and consistently—no hats in school, for instance, no lying, immediate expulsion for violence. I sat at a table with two seniors, Jennifer Vega and Shalonda Greer. They told me that the existence of those rules was the major difference they perceived between Messmer and the public schools that some of their friends attended. "They are very tough here," Jennifer said. "You can't break any rule without being punished. And you have to work hard to stay in the school. In the public schools, there's a lot of violence, and you don't have to work hard."

Messmer's per-pupil cost is $4,600, compared with the public schools' $7,200. No Messmer student pays more than $2,800, however, and no student who keeps up his grades is ever turned away for inability to pay. The biggest current sources of income to make up the difference are 40 private PAVE scholarships at $1,500 per student and the 150 students who carry state-supported vouchers valued at $4,900 each.

Clearly the taxpayers are getting their money's worth. With a student body that is 85 percent black and 10 percent Hispanic, with 60 percent of the children from single-parent families and a similar number below the poverty line, Messmer manages to get academic results more characteristic of middle-class, suburban high schools. Its graduation rate is over 95 percent, and almost all the graduates go on to college—the favorite selections being Notre Dame, Marquette, the University of Wisconsin at Madison, and a number of black colleges, such as Howard and Spelman. Those who don't go on to college go either into the military or straight into the workforce. "I have been here 12 years, and I have never had a kid on graduation day say, 'I don't know what I am going to do,' " says Smith.

Needless to say, Smith is a big enthusiast for vouchers, not only for helping his school achieve its goals but also for what they might accomplish for the pupils in the public schools. "The Milwaukee public schools started out hating

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vouchers," he says, "but it was a real wake-up call for them. They have created a lot of new schools in the last few years, and every one of them has a big banner over the front of the building that says, 'High standards begin here.' The superintendent now says, 'We ought not to be fighting with the choice schools; we should be working with them.' I want to see the public schools learn the lesson that when they stop making excuses about having to work with poor, minority kids, they will improve."

While some Milwaukee parents have chosen to take their vouchers to religious schools such as Believers in Christ Christian Academy and Messmer High School, others have chosen to use them in private secular schools. On the city's Hispanic Near South Side—across town from the neighborhood where Messmer and Believers in Christ stand some 12 blocks from each other—a school called Bruce-Guadalupe has enrolled some 200 to 300 voucher recipients among its 500 students for several years. Once part of the Catholic archdiocese, it is now a secular private school owned by the United Community Center.

The school is the brainchild of the center's executive director, Argentine-born Walter Sava, 54, a gray-haired, former sixties' student activist at the University of Wisconsin at Madison. After taking a Ph.D. in romance languages at Wisconsin and teaching at Carroll College, Sava took over the reins of the United Community Center ten years ago. In those days, the center had little more than a gymnasium, an after-school program for children, and a drug-prevention program for adults. Since then, Sava has been able to raise several million dollars (from the Bradley Foundation and a long list of major corporations) to build two new buildings and expand the range of the center's activities. By far his biggest innovation has been to bring the Bruce-Guadalupe K–8 elementary school in under the wing of the center. Combining schools with adult community centers, Sava believes, is a dramatically efficient use of space, since the building and facilities are in use when school is not in session.

A brand-new addition to the main community-center building houses the school. Strikingly beautiful, it has a Spanish architectural flavor, with a pyramidal front entrance that evokes Mayan culture, and traditional Mexican murals and mosaics decorating the corridors. The school and community center share many facilities, including the gym, a health clinic, dance studios, and a large performance auditorium. The center houses a popular, handsomely decorated Hispanic restaurant, which also cooks the meals for the school's cafeteria. This combining of facilities not only makes for efficient usage of space and economic efficiency, but also provides a sense of shared community and civility. Parents and grandparents mingle with the children, since they often come to the center to attend English classes, visit the health clinic, or eat at the restaurant.

What is immediately striking about the school is that it is multicultural in the best sense of the word. The second- and third-grade classes I visited were full of Hispanic children, many of them recent immigrants, with varying degrees of limited English-language proficiency. In public schools in Milwaukee (and indeed, in most parts of the country), many of these children would have been shunted into bilingual-ed classes. Here, though, I witnessed teachers drilling the students in the English alphabet and sounding out words in English. The reading lessons were clearly based on traditional phonics, not on the faddish and ineffective whole-language method.

This approach largely reflects the educational philosophy of Walter Sava, who, of course, is not a "professional educator." "People think that because this is a school in the barrio, we are only interested in preserving our culture and our language," he told me. "Of course we are, but we are also eager to see to it that our kids become proficient in the English language. They are learning to read through phonics. The curriculum is knowledge-based, with clear benchmarks that the teachers can't deviate from very much. At the end of each grade, there are certain things they have to know and are tested on." In addition to the full traditional curriculum, the children get plenty of extra work in Hispanic history and literature.

Despite a per-pupil expenditure of $4,200 that is still far less than the $7,200 the city's public

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schools spend, Bruce-Guadalupe caps its classes at about 25 students and offers its pupils an amazing range of services—sports programs, a full arts program, and a health clinic with a full-time nurse. This cornucopia of resources results partly from the sharing of facilities with the community center and partly from the administrative and budgetary flexibility Sava enjoys by not being burdened with either a centralized school bureaucracy or a teachers' union contract.

With its required uniforms and its strict disciplinary code, the school has the feel of an orderly Catholic school stressing character and values. The results in academic performance have been striking. Eighty-one percent of Bruce-Guadalupe's third-graders scored at or above grade level on the state's standardized test last year—not only a better outcome than most Milwaukee public schools but close to what some of the suburban Wisconsin schools achieve. These results are all the more remarkable when you consider that 100 percent of Bruce-Guadalupe's students had to take the test, whereas public schools often excuse students with English-language deficiencies from taking it.

Although Sava is paying his beginning teachers the same rate as the public school system, he regards the union culture as the kiss of death.

The success of Bruce-Guadalupe has been so universally recognized in Milwaukee that the public school district decided to get on the bandwagon this year and make some money in the bargain. In a unique arrangement, the district contracted with Sava to count all his students as public school students. (There is a certain sleight-of-hand in this arrangement, which claims to be analogous to a public school system's counting as its own students the disabled kids it contracts to send off to private schools equipped to educate them.) The public school district gave Bruce-Guadalupe $4,800 per pupil from the district, while charging the state $6,000 for each of those same students and pocketing the $1,200-per-kid difference.

Even the Milwaukee Education Association would have supported this arrangement, had Sava allowed the union to come in and try to organize his teachers. He refused. Although he's paying his beginning teachers the same rates as the public school system, he regards the union culture as the kiss of death. Without the constraints of the Milwaukee teachers' union contract, for example, he is able to have his teachers come into the school for two weeks or more before the opening of the school year for staff training sessions. He is also able to offer a longer school day and to assure parents that if their children should somehow wind up with an incompetent teacher, that teacher can be fired.

Sava has nothing against the public schools. Indeed, he persuaded a retired Milwaukee public school principal, Allan Nuhlicek, to be Bruce-Guadalupe's principal for its first two years. "Being a public school person," Nuhlicek told me, "I wasn't for vouchers for private schools when I came here. I didn't like to see money drained off from the public schools—until I saw what you can accomplish with half of the per-pupil costs of the public schools." Nuhlicek also told me that in 12 years as a Milwaukee public school principal, he had been able to hire only two teachers that he had personally selected; all the rest were forced on him because of the union contract. "Now I'm for schools like this," he concluded, "to give the union some competition."

If school choice spreads to more cities and states, David Brennan—a colorful, cowboy-hat-wearing, 68-year-old resident of Akron, Ohio—should write the book on how to get new schools up and running in a hurry. Brennan, a wealthy industrialist, has long fretted about the poor education of many applicants for jobs at his companies, and he has concluded that the public schools, without competition from outside, will never produce the literate, numerate workers the twenty-first-century economy will need. As a prominent Republican fund-raiser, he played a key role in persuading Ohio governor George Voinovich to

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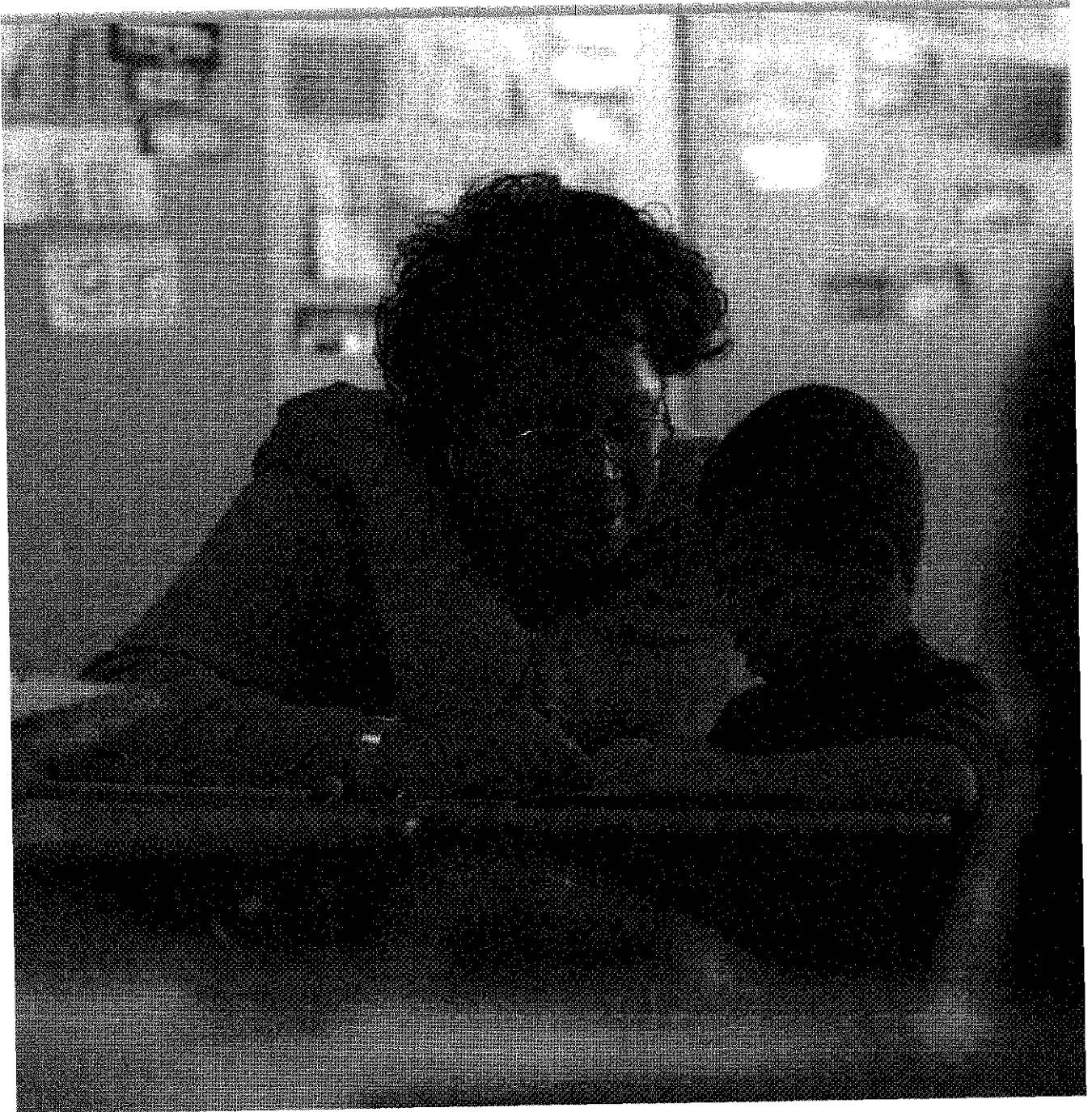

. . . thrive in an ordered atmosphere that stresses academic achievement and good values.

support the legislation that resulted in Cleveland's voucher program for 2,000 low-income students.

When the state officially announced the voucher program in April 1996, Brennan was on the spot to make sure that all the children who opted for the program actually had a school to attend. After all the spaces in the existing private schools were filled, 300 or so students were left over, and they enrolled in the two new secular schools that Brennan promised to open. He called them the Hope Academies.

But when the teachers' union challenged the program's constitutionality, vouchers were put on hold, pending a ruling from the Ohio courts. The green light didn't come until mid-August. At that point, 300 students had signed up for a school that didn't yet exist. If Brennan hadn't been able to get his schools opened by September 1, those students would have been forced back into the public schools they thought they had escaped.

Until there was a favorable court decision, however, Brennan couldn't enter into contracts with

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principals, teachers, and support staff. The only thing he had in hand was an abandoned Catholic school building, leased to him for $1 a year by a friendly bishop. In the 15 frantic days after the August ruling, he and his associates hired principals and teachers for the two schools and bought desks, chairs, and computers. Miraculously, on the official September 1 opening of the two Hope Academies, over 300 poor, mostly minority children, whose parents had fled in desperation from their previous public schools, found reasonably competent teachers in each fully furnished classroom. A few teachers were defectors from the public schools; some were substitute teachers who didn't have regular, full-time licenses; some were completely unlicensed recent college graduates, who just wanted a chance to teach young children.

Nothing came easy for the rest of that first year. Unaccustomed to a demanding workload, none of the former regular public school teachers lasted till summer vacation. Even the most dedicated teachers found themselves challenged by the job of taking public-school children with poor work habits and inculcating them with a disciplined approach to academic work. "I was shocked to find that many of my third-graders couldn't spell their names, couldn't add four plus three, couldn't even sit still," recalled teacher Wynne Udovich, a veteran of the school's first year.

Nevertheless, the school survived. Under tough, battlefield conditions, David Brennan was able to offer a real-life demonstration of his theory that open markets and freedom from bureaucratic constraint will work wonders in education. At the beginning and at the end of the first year, all the Hope students in the third grade took standardized achievement tests in reading and math. According to an analysis by respected scholars from Harvard, Stanford, and the University of Texas, the students scored, on average, 5.4 percentile points higher at the end of the year on the reading test and 15 percentile points higher on the math test. Noting, correctly, that "many of the poorest and most educationally disadvantaged [of the voucher] students went to the Hope schools," the three scholars concluded that these students nevertheless appeared to be "learning at a faster rate" than their counterparts in other public schools.

A recent analysis by Indiana University professors showed some slippage on the test for the next group of third-graders. David Brennan doesn't dispute the findings; he attributes them to some unprepared teachers, since departed, and promises that the school will remedy the situation. But while one appropriate yardstick of the voucher schools' success is standardized test scores, an equally important evaluation is the one that parents deliver. Even more than whether their children score a few points higher on a standardized test, what they want to know is whether their kids are in a safe environment, and whether they are being taught good study habits and appropriate moral lessons.

When I visited the Hope Central Academy, I could easily see why most of the parents were satisfied with their choice. The school is located in a formerly Polish and Czech neighborhood in southeast Cleveland. It doesn't need security guards or metal detectors. Dressed in their blue-and-white school uniforms, the children move through the hallways quietly and civilly. In every classroom I visited, the children were deeply engrossed in serious academic work. Each of the rooms had its own computer area, with five or six workstations. In a second-grade classroom, children sat at each of the terminals, working on a math program coordinated with a standardized achievement test. All the other children were quietly writing in their workbooks, under the no-nonsense supervision of their teacher, Kay Linear.

Like the other voucher schools I visited, Hope Central Academy was living proof that professional education certification and graduate education degrees are not synonymous with better educators. Kay Linear is a case in point: a middle-aged black woman, she had had a successful career in business and then had decided to go into teaching, without an ed-school degree, after her own children had grown up. The school's dynamic computer director and fifth-grade teacher, 27-year-old Stacie Morris, is another case in point. A former public-school teacher from upstate New York, she moved to the Cleveland area when her

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husband got transferred, and she discovered that her New York State teaching license wasn't valid in the Cleveland public schools. So she went to work at Hope Central, which, unhampered by the public school system's bureaucratic regulations, hired her with enthusiasm. "I've been thrilled to work here," she told me. "My colleagues are really committed; everyone works very hard, and we have the flexibility to do things that couldn't be done in the public schools."

Similarly, the principal of the school is Linas Vysnionis, now 35, a tall, bearded lawyer who had his own law practice and did some college teaching before deciding that he wanted to teach young children. He taught fourth grade at Hope Central before becoming principal last year. "I'd be the first to admit that I have a lot more to learn," says Vysnionis, "but I think I'm given the freedom and discretion to get things done that I wouldn't get in a public school. And a lot of what I do is simple commonsense: you let the teachers do their jobs, and you back them up."

Part of the commonsense approach is that the school spends very little for administration. Vysnionis has an office staff of three: a secretary, an admissions secretary, and a bookkeeper. The only expenditures for security are the closed-circuit cameras near the front door and the buzzer system for letting visitors in. The school is able to direct almost all its financial resources to the classroom, so it can keep class size under 30 and can afford computers and educational software for the classrooms.

David Brennan, the man who hired Vysnionis and brought Hope Central into existence, is probably the most optimistic and visionary voucher advocate in the country. He sees his two Cleveland schools as prototypes for a revolutionary approach to education. He has already surveyed his hometown, Akron, and discovered that the city has enough room in existing churches and community centers to create new schools for all the city's public school students if, as is highly unlikely, a voucher program should impel them to abandon the existing public schools *en masse*. And he is certain that more school choice will bring more, and more creative, Americans into education. "I know that when choice becomes universal, there are 1 million people out there who are smarter than we are, who are going to solve all these problems of inner-city education," he says, with infectious enthusiasm. "There is nothing more impressive than American innovation. Let's give it a chance."

Cheryl Brown, a black evangelical Christian; Brother Bob Smith, a black Capuchin friar; Walter Sava, a Hispanic community activist; and David Brennan, a millionaire white industrialist—here is a taste of what American diversity at its best can achieve. What these four exemplary Americans have accomplished is to kindle some of those "thousand points of light" that one of our ex-presidents liked to talk about. In their schools, they are giving thousands of disadvantaged children the best possible opportunity to grow up to be productive adults. They do this not by portraying the children as victims needing special privileges but by holding them to one common standard of excellence and hard work.

"There is nothing more impressive than American innovation," says David Brennan. "Let's give it a chance."

But these four individuals are also accomplishing something else of significance. In their separate ways, they are demystifying schooling by disproving the widely accepted dogma that only government-certified education professionals know what and how to teach children. This myth has spawned a vast, interlocking industry of education schools, certification boards, teachers' unions, and school-board officials, and it has certainly boosted the material interests of those certified professionals. But the dogma has done little for America's schoolchildren. The four educators profiled here, and hundreds of others like them, are showing us a different—and better—way. Clearly, it's in our interest to make sure that they are able to continue. •

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Progressive Ed's War on Boys

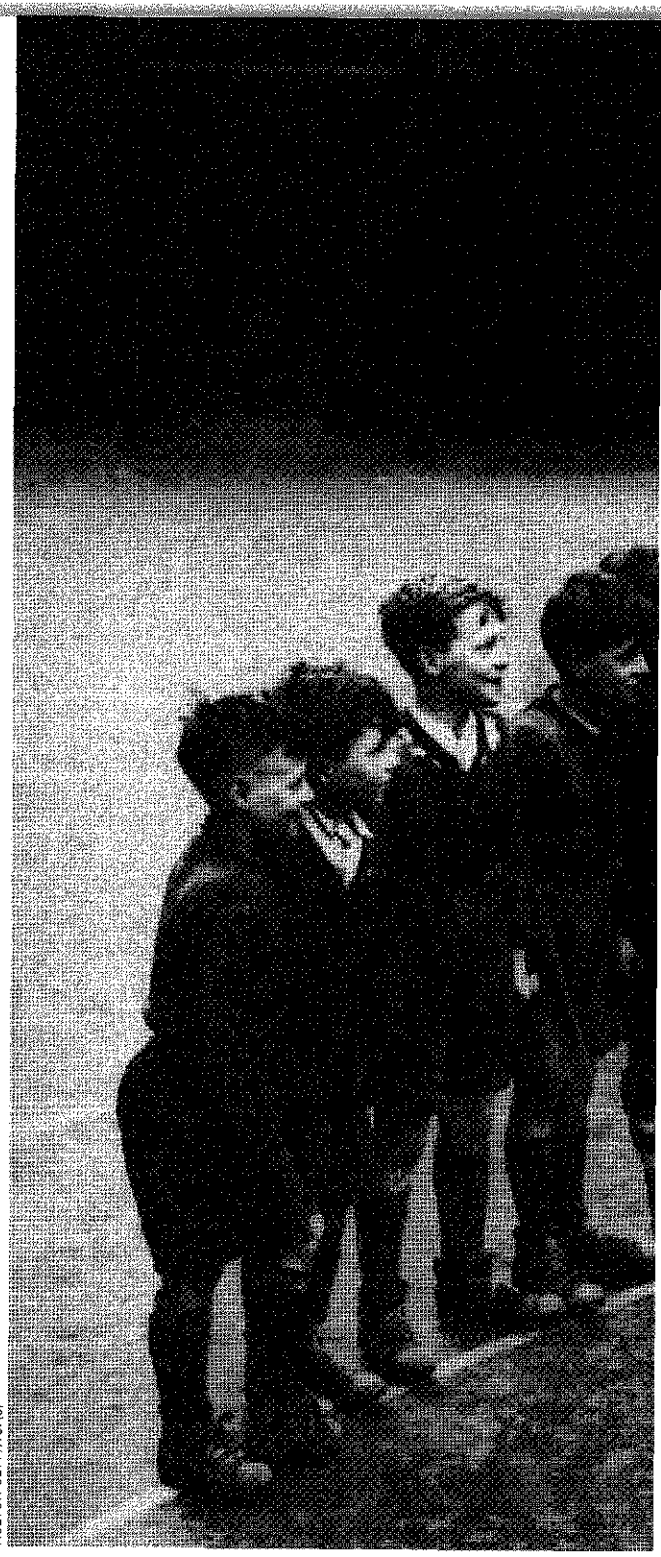
Janet Daley

Just when you thought nothing new could be added to progressive education's long catalog of failures, yet one more has come to light—and it is a particularly grave and far-reaching failure. For progressive ed, I would argue, is responsible for the epidemic of underachievement among boys in British state schools, now so deep and widespread that it is taking on the proportions of a national crisis. Where boys had once lagged behind girls only in the earlier years of primary education—and then only in English and history rather than in math or science—they now keep falling behind in both English and mathematics through the entire course of their schooling, as national test results clearly show. Where once boys could have been expected to catch up with girls academically by the age of 12, and to exceed their performance at public examinations by the age of 18, their performance now falls further and further behind with every passing year.

Experts and pundits have blamed this poor performance on everything from the influence of street culture and the media, to the lack of employment prospects for working-class boys, who once would have been absorbed into manufacturing, to the declining number of male schoolteachers who could provide role models.

In Britain, progressive ed banished competition and testing as harmful and elitist. Result: underachieving young males.

But the real culprit is the radical shift in teaching methods and in the content of the school curriculum that progressive education has wrought. To understand why this should be so, consider just exactly what progressive educators hoped to accomplish—and how, in the process, they explicitly rejected male virtues and values.



HULTON GETTY/TSI (3)

Progressive ed's "liberation" of the British classroom and curriculum had an unashamedly and

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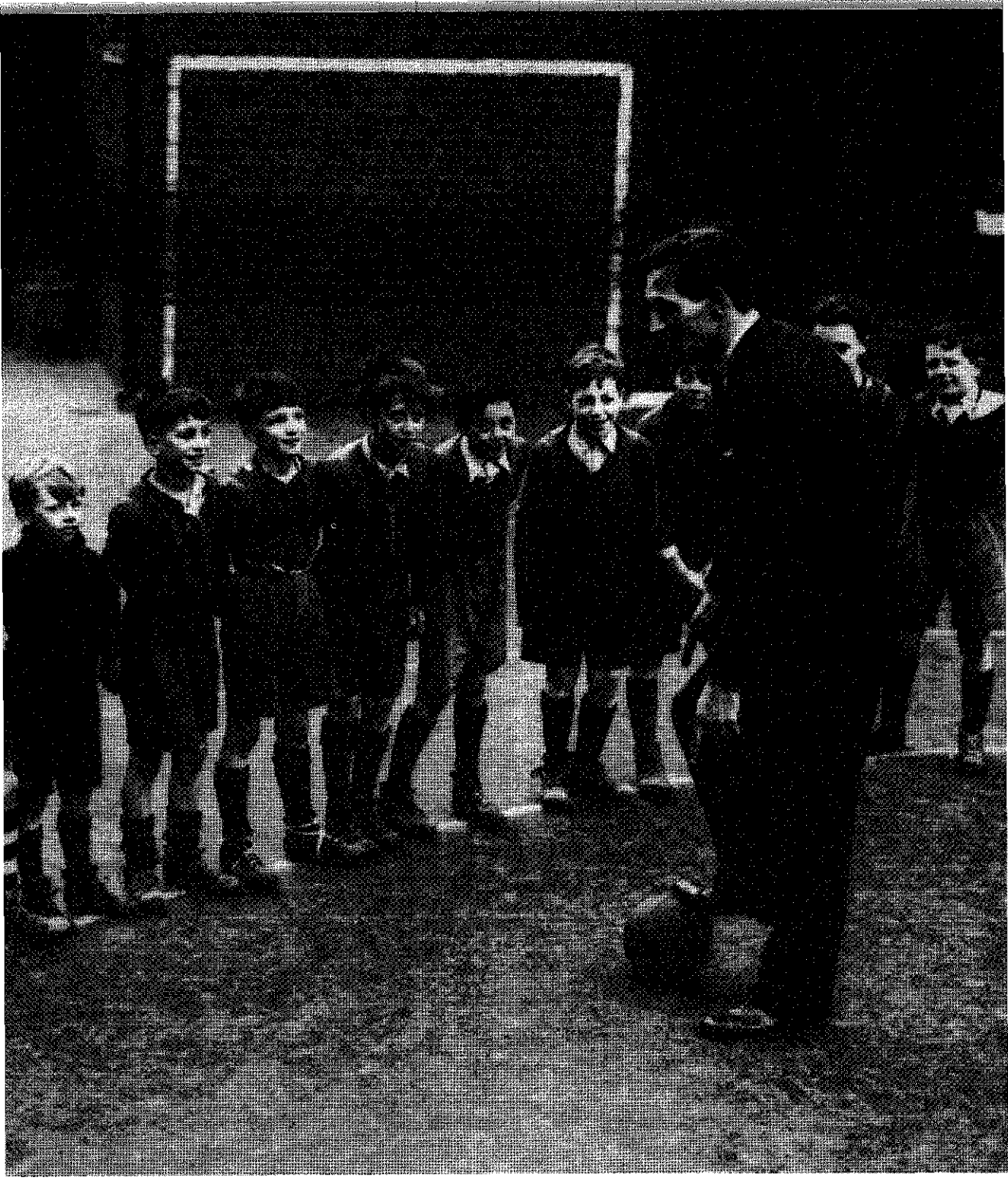

Without traditional competition in school, . . .

overridingly political agenda. To the extent that British progressive theorists spoke in terms familiar to American progressivists—of raising the child's "self-esteem" and sense of self-worth—they understood these words in the context of class. Rather than encouraging working-class children to see the inadequacies of their own deprived social backgrounds and to aspire to go beyond them, schools would embrace and idealize "anti-elitism," in the name of delivering children from their feelings of class inferiority. It seemed to occur to no one that this inverted snobbery would lock deprived chil-

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dren into the limitations into which they had been born, opening no wider perspective or experience as an escape route out of the notorious passivity of working-class attitudes. What this meant was that state schooling was giving up on social mobility in favor of the virtue of class solidarity.

This rebellion against "cultural elitism" and "middle-class values" contained a wholesale rejection of virtually the entire corpus of historical and literary knowledge that had traditionally been passed down from one generation to the next by formal schooling. Progressive educationalist ideology dismissed both the content and the skills that made up this heritage as irrelevant to the needs of most working-class children and even sinister in its association with the public school tradition of classical learning and its concentration on bourgeois concerns. Why, they demanded, should a child from an inner-city housing project learn the history of the ruling class—a succession of "kings and battles," as I heard one teacher describe it at a conference on the teaching of history? Far better to let him explore history through his own eyes, as a series of emotional encounters with people with whom he might be able to identify—who, for some reason, always turn out to be oppressed people who are truly imprisoned in their circumstances, like medieval serfs or American slaves.

This view resembles the kind of ruthless utilitarianism that sees traditional education wasted on "common people" fit only for factory fodder.

By dismantling the traditional study of literature and grammar, the schools lost the unifying thread of cultural initiation: the basic knowledge of linguistic and literary heritage that had once equipped every properly educated person, whatever his background, with the ability to move freely and confidently in British society. Predictably, the effect was to reinforce class differences. Henceforward, any child who did not learn to speak and write correct English at home, or who did not become familiar at home with his own literary heritage, was effectively cut off from participation in his own historical culture. While militant egalitarians defended this perverse new orthodoxy in the sincere belief that the literary classics were inherently elitist and irrelevant to the needs of most children, you will notice the irony: how closely this view resembles the kind of ruthless utilitarianism that sees traditional education as wasted on "common people" fit only for factory fodder. Bizarrely, those on the left-liberal axis in British education continually espoused views consistent with good old-fashioned aristocratic paternalism. The whole of British progressive educational orthodoxy is riddled with what, to American ears, sounds like the most complacent and patronizing reverse snobbery.

Lost utterly, too, was any kind of rigor in instruction. Testing, for example—particularly at the elementary school level, where experts rejected it as divisive, discouraging, and subversive of the correct approach to learning at this stage—fell into disuse. The schools dropped formal training in literacy and numeracy in favor of "project teaching"—play-like, unstructured, open-ended work, done in groups and aimed supposedly at weaving the specific skills of language and number painlessly and imperceptibly into a larger topic (such as transport, or insect life) that engaged the child's own interests. Had project work remained an enjoyable sideline of primary teaching, it could well have enriched children's learning. In the event, though, it became the easiest possible way for a child to avoid the things he found most difficult and for which he needed help most urgently—which explains why so many British children arrive at secondary school unable to read, write, or do simple arithmetic, weaknesses that traditional schooling methods would have caught much earlier.

A generation passed before what had been lost became apparent. Children who had been given an

. . . boys don't develop the sense of achievement and mastery they need . . . .

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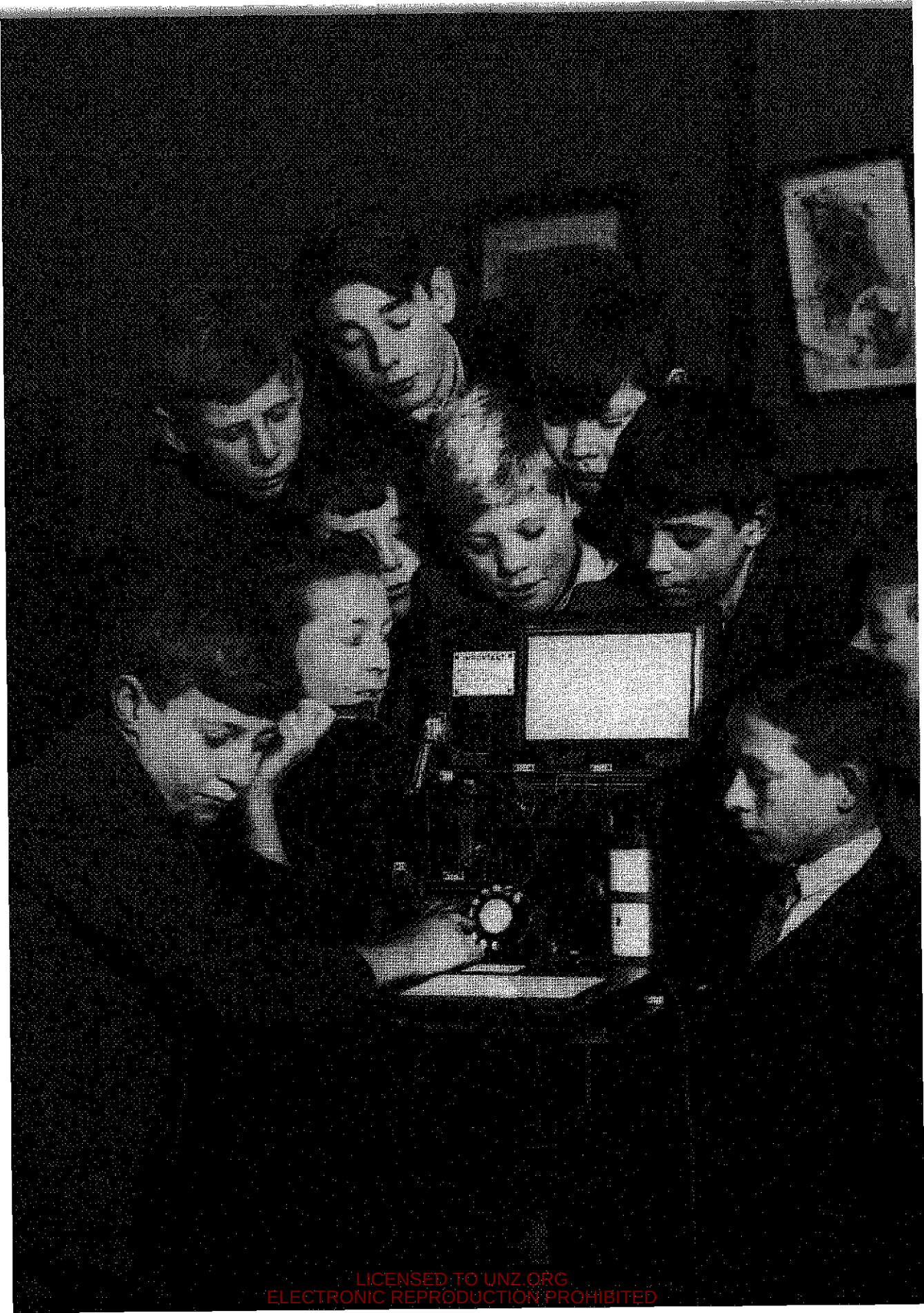

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open-ended brief to pursue their interest in a given topic had little sense of goals or objectives. By contrast, though the old-fashioned teaching of skills in isolation might have seemed dull, it offered clearly defined paths for achievement. The absence of any coherent and comprehensible framework of goals and attainments left children in a miasma of confusion, which produced insecurity and a permanent sense of bewildered, frustrated dissatisfaction. The lack of any clear-cut system of assessment meant that they never gained an unambiguous sense of accomplishment and the confidence of knowing that they had successfully completed one stage and could go on to the next. Nothing makes children more anxious than a vacuum: to refuse to present them with specific measures of mastery and definable objectives is to set them hopelessly adrift. Of course, testing involves a risk of failure and disappointment, but in the long run these are less damaging than being without any idea of what counts as achievement.

Children are not fooled by this deceit. They know that if there is no failure, there can be no success. Ironically, it was just the sense of the child's self-worth that this approach undermined, for all its protestations of strengthening self-esteem. However much the primary schoolteacher might insist that specific targets and abilities were unnecessary, the pupil eventually discovered that the real world values real skills and will reward only those who can display them. The sense of pointlessness in the classroom and the ultimate sense of betrayal on leaving it turned out to be more damaging to children's self-esteem than were specific failings that might have been remedied had they been diagnosed at an early age.

Again, more than methodology was at stake here. The progressive ideology was ultimately about middle-class guilt and a breakdown in the idea of adult authority itself. Progressivists no longer wanted to see education as an older generation passing on a body of cultural and historical learning to a younger one—and then judging how well that learning had been assimilated. Education was now a much more personal exercise, one that aimed to enlist and gratify the child's emotions at every stage.

So it was not just a matter of feeling sorry for the child who failed to produce the right answers: progressive ideology rejected the very idea that getting answers right was important—or even that there could be any such thing as a right answer. In English and history, the result was an almost total vanquishing of any notion of objective truth or authoritative analysis. Far from learning the value of intellectual detachment and freedom from bias, children learned only to see their own personalities as the measure of everything. Subjectivity and emotional involvement—the supposed exercise of imagination rather than the accumulation of information—became the central values of education. But in reality, what could be more stunting to the imagination than frustrating a child's craving for real knowledge?

The brunt of all this fell most disastrously on boys—who, it turned out, temperamentally depended much more than girls on the principles of traditional education: discipline, structure, and competition. How disastrously? According to the 1996 National Curriculum tests (which the last Conservative government imposed on state schools only after years of teachers' union resistance), 7-year-old boys were on average 10 percent behind girls in English, 11-year-old boys were 15 percent behind girls, and 14-year-old boys were 18 percent behind girls. Instead of overcoming their early disadvantage in literacy, boys are compounding it.

Even middle-class boys within the state school system are achieving significantly less well in public examinations than their female counterparts. But in areas of high social deprivation, the disparity between the performance of girls and boys is staggering. White working-class male youths are now performing more poorly in school than almost any other social or ethnic group—the sole exception being Afro-Caribbean boys, who do marginally worse. Boys are not only failing to achieve academically, but they are dropping out in alarming numbers into a nihilistic, outlaw street culture. Unemployable and uneducated, these youths make their chief preoccupations hooliganism, petty crime, and sexual predation.

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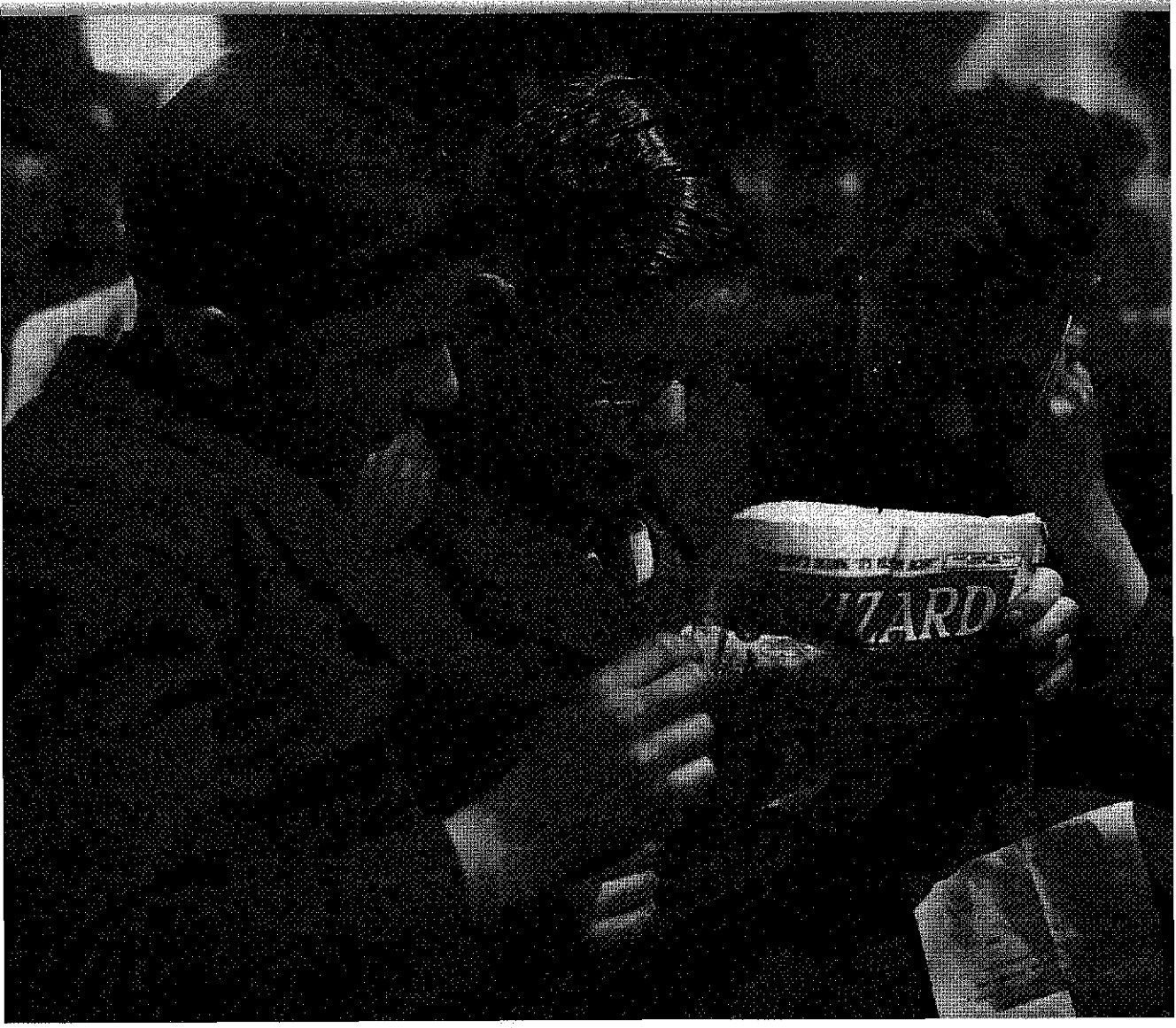

. . . and they stop trying hard in school.

One key reason why girls are doing strikingly better than boys is that teachers, in accordance with progressivist ideology, now judge schoolwork in a way that rewards enthusiasm and personal involvement more than objective knowledge and accuracy. I don't mean to suggest that girls are not good at the more objective forms of learning—only that they are particularly good, much better than boys, at identifying with imaginative others and seeking to please. Girls of all classes become tractable and cooperative at a younger age than boys, partly because they are able to empathize with others at an earlier age. By the age of four or five, little girls can play together with minimal supervision. They make rules and follow them, adopt compatible roles, and reach mutually accepted agreements by using verbal skills and adult impersonation. Perfectly normal boys of the same age will rampage into anarchy without adult intervention. Having had only daughters myself, I can remember how the most civilized girls' party could be reduced to chaos by the presence of a single boy—who invariably seemed to possess none of the girls' moral inhibitions or rational self-control.

As a parent, what shocks me most is the self-imposed ideological blindness: the failure of basic psychological perception. Even for a non-professional, observing a room full of young children of both sexes at play is an instant education in the differences between them—and the inevitable educational consequences of those differences. While most girls are likely to be motivated by a desire for approval and their own standards of social responsibility, competitiveness seems to come as naturally to most boys as cooperation and conscientiousness do to girls, and boys seem to need a reliable ladder of progress and explicit rewards to channel their competitiveness and

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keep them going. What used to provide such a framework was classroom competition and traditional structured academic tasks, with their ever-increasing, ever-challenging levels of mastery.

By deriding competition and working hard to strengthen individual self-confidence (which girls often lack), schools have loaded the system very heavily in favor of female achievement and male failure. What has been systematically dismantled is just the kind of externally imposed structure and clear discipline, both behavioral and intellectual, that boys require. This was, of course, part of an explicitly feminist program: the reordering of educational priorities and methodology so that they were not "biased" against female values has been a deliberate objective of progressive educational philosophy. School is now designed to be most helpful to the self-disciplined and self-motivating—which, during childhood and adolescence, largely means girls.

A world in which no one can be called a winner and nothing counts as losing will have little call on the young male imagination.

Educational ideology for the past 30 years has been devoted to the encouragement of self-esteem: if you feel good about yourself, then what you can do or accomplish in an "artificial" academic setting is of little importance. The aim was to make all children feel valued and confident rather than giving "disproportionate" approval to the able few. School was a form of therapy, intended to equip the "whole child" for life, not just for academic achievement.

What was lost in this well-intentioned psychobabble was the understanding that nothing increases children's confidence more than the acquisition of knowledge and mastery of usable skills. Children are not fooled by patronizing attempts to hide real differences in ability, and boys especially are frustrated to the point of frenzy by a perverse refusal to give them clear goals and intelligible markers of success. While most children were shortchanged to some extent by this philosophy, boys—and particularly working-class boys—were more likely to be devastated. By failing to criticize, teachers deprived them of the criteria for self-criticism. By abdicating their responsibility to exercise firm control on behavior, schools allowed the worst-behaved to dominate the culture of the classroom and to set the tribal standards for adolescent male society.

By rejecting the old-fashioned ladder of tests, measurable achievement, and competition, progressive ed subverted incentives that had once given school a comprehensible point for many pupils—particularly the male ones. It may dismay the liberal intelligentsia, but a world in which no one can be called a winner and nothing counts as losing will have little call on the young male imagination.

To be understood in its full enormity, what has happened in British education because of progressivist ideology has to be seen against a background of what has been lost. The old tradition separated pupils into academic or technical tracks based on a selective examination at the age of 11. According to historical myth, this division after elementary school reinforced class divisions. In fact, grammar schools (as the academic schools were called) were responsible for delivering more working-class children from deprivation than the "comprehensive" school system that swept grammar schools away. In the 1960s, before it abolished its two-tier system of state secondary schools, Britain had more university students from working-class homes than any other European country. Indeed, a whole generation of ex-working-class intellectuals and authors, including the "angry young men" Kingsley Amis and John Osborne, came out of the much-maligned grammar schools. But now, thanks to the replacement of grammar schools by comprehensive schools, the proportion of working-class students at traditional universities has plummeted. The ultimate irony of the progressive revolution in British schools is that it has harmed most disastrously the deprived children it was intended to rescue. ●

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Our School Problem and Its Solutions

Diane Ravitch

Education is more crucial than ever in today's knowledge-based economy, yet the nation's public schools languish in mediocrity or failure. Here's how we can fix them—through competition and tougher standards.

When those of us of a certain age lament the loss of public education's good old days, we forget—or perhaps never knew—that when we were in school, there were large numbers of youngsters who dropped out and went to work. We didn't think of them as dropouts. They had no trouble finding jobs: there was plenty of work for semiskilled, even unskilled, workers. Today, however, as those jobs have been exported to other countries and as the U.S. knowledge economy produces proportionally less employment for those who lack a sound education, students who leave school without skills have meager prospects. Unlike in the past, today we have to educate virtually everyone for higher education or for the modern workplace. And because the demands we place on our school system are greater than in the past, the challenge of improving public education is more acute than ever before, too.

But the schools are not meeting today's challenge, as numerous studies make clear—and this despite the fact that in the past generation we have significantly increased the resources available for education. In their recent book, *Getting Ahead*, Isabel V. Sawhill and Daniel P. McMurrer of the Urban Institute estimate that per-pupil expenditures increased by 83 percent between 1970 and 1994; that student-teacher ratios dropped by 22 percent; that the percentage of teachers with a master's degree almost doubled—but that these hefty increases in inputs produced very little gain in student performance. High school graduation rates were stagnant during these years, and the United States—which used to lead the world—now ranks last among developed nations on this measure. Student scores during the same period hardly budged. On the federally funded National Assessment of Educational Progress in mathematics, science, and reading, for example, scores have been mainly flat for the past 25 years, especially for 17-year-old students. And they are flat at an unacceptably low level. As the National Assessment data disclose, the percentage of students unable to meet the minimum standard of their grade ranges from 25 to 40 percent in every grade and every subject. No less worrisome, the gaps between racial groups are disturbingly large; despite some progress in narrowing these gaps, the average performance of 17-year-old black and Hispanic students is on a par with that of 13-year-old white students in every subject.

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International assessments provide another unsettling gauge of student performance. Take the most recent—the Third International Mathematics and Science Study—which compared the performance of half a million students in 41 countries at three grade levels. In fourth grade, American students did very well; among eighth-graders, American students were below the international mean in mathematics and just above it in science. But by the end of high school, American 12th-graders performed very poorly, outscoring only those in Cyprus and South Africa.

When these math and science scores came out, many educators showed no interest in learning why American students seem to do worse as they get older. Instead, they attacked the test. Some claimed that the results were meaningless—at least for seniors—because our schools value creativity, as if low scores were a precondition for high creativity. Critics claimed that the results were invalid because the United States educates almost everyone while other countries educate only their elites. This excuse was untrue: most countries in the study had secondary enrollment rates similar to ours, and the students tested were a representative sample, not an academic elite.

The College Board reports that the average verbal score is 505, but on the original scale it is still only 428—near its historical low point.

Scholastic Aptitude Test scores, which measure the verbal and mathematical skills of college-bound students, reached a high point in the mid-1960s and then began to plummet. The good news is that the math scores have bounced back, almost to their mid-sixties level. The bad news is that the verbal scores fell to a low point in 1980 and have never recovered. Many people concluded that the scores had fallen because the college-going population was growing more diverse and less selective. Accordingly, in 1994, the College Board decided to "recenter" the SAT, converting the average scores at that time into the new norm. So today the College Board reports that the average verbal score is 505, but on the original scale it is still only 428—near its historical low point. What makes this recentering so maddening is that the facts refute the assumption that today's college-going population can't possibly match the performance of the test-takers of the fifties and sixties. After all, today's diverse students have posted SAT math scores that nearly reach the original high point of 1964, even though verbal scores remain in the cellar.

Urban schools, in particular, seem trapped in a spiral of poor educational performance. They have 24 percent of all U.S. public school students, 35 percent of all students who are poor, and 43 percent of minority students. A massive survey of urban education released last year by the respected publication, *Education Week*, concluded that "most fourth-graders who live in U.S. cities can't read and understand a simple children's book, and most eighth-graders can't use arithmetic to solve a practical problem." Slightly more than half of big-city students are unable to complete high school in the customary four years, and many of those who do eventually graduate are ill prepared for either higher education or the workplace.

In New York City, only 48 percent of the students who start high school graduate four years later. Only about one out of every five New York City high school graduates earns a Regents diploma—which is reason to worry about what will happen over the next few years as the state stiffens graduation requirements and requires all students to pass Regents exams. Unless radical change occurs in the way students are prepared, some neighborhoods will have very few high school graduates.

Public Agenda, a nonpartisan research organization, recently surveyed 450 employers in New

Once upon a time, American schools set high standards for kids, requiring them to study hard . . .

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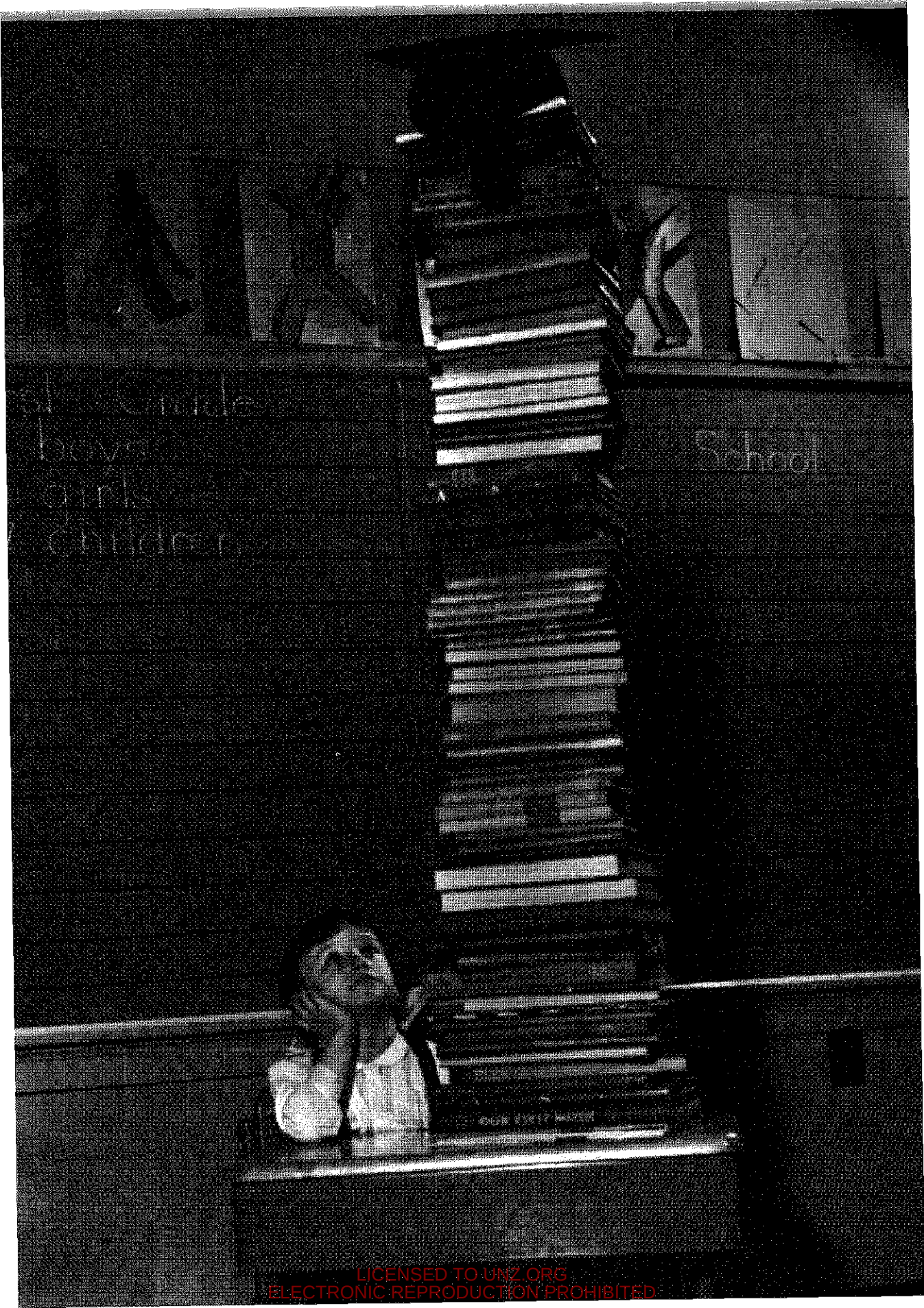

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York City for the New York City Partnership and Chamber of Commerce and found massive dissatisfaction with the poor preparation of students. Fully 86 percent of the bosses reported their belief that a city high school diploma is "no guarantee that the typical student has learned the basics." Only 7 percent believe that students coming from the city's public schools have the skills they need to succeed in the world of work. Employers especially fretted over students' lack of the most basic skills, citing their poor grammar, spelling, and math, their inability to write clearly or speak English well, and their poor work habits, including disorganization and lateness. Most employers think that the school system does a poor job of managing its resources, and nearly 90 percent agree that the system suffers from "too much bureaucracy." Some 95 percent believe that the system needs fundamental change, and one-third go so far as to say that it needs to be "completely rebuilt." Employers stand ready to help the schools; but in return they want higher standards, reduced bureaucracy, and accountability from them.

The glaring need for remedial education on college campuses is another sign that students are graduating from high school with weak skills. At some branches of the City University of New York, as is notorious, a majority of first-year students fail to pass all three placement tests in reading, writing, and mathematics. But this is not just a New York City problem or even just a big-city problem. Nationally, about 30 percent of all first-time freshmen have to take a remedial course in basic academic skills.

At California State University, which accepts students only from the top third of their high school graduating class, 47 percent of entering freshmen require remediation in English, and 54 percent need catch-up courses in math. At the University of California, which lets in only students from the top eighth of the entire state's high school graduates, 37 percent of entering freshmen fail the university's writing test and must take a course known as "bonehead English." In Texas, 54 percent of entering freshmen in the state university are required to take the more emolliently named—but just as remedial—"developmental education."

Clearly, some students—recent immigrants or adults who have been out of school for several years and have returned—will need extra help to participate in higher education. But it is also clear that many young people are completing high school without getting a high school education. For everyone involved, it would be far better to get it right the first time.

Given the ever more crucial need for a strong public school system, along with the mounting evidence of the education system's failure to respond, the clamor to change education to make it more effective for all students is intensifying. The changes needed—and some of them already are starting to happen—are of two kinds, and they complement and reinforce each other.

First, public education needs standards. Teachers should demonstrate that they know the material they are expected to teach. Every state should have good entry tests for teachers, based on the state's academic standards, not just on the ability to pass tests about pedagogy rather than subject matter. The failure of 59 percent of would-be teachers on a required test in Massachusetts sent a shock wave across the nation. Those states that lack such tests have no idea if their teachers measure up any better.

Public authorities should establish standards that are clear, measurable, and non-politicized for pupils as well as for teachers. Students should know in advance what they are expected to learn in each subject and grade. They should know that what they are taught will be tested and that if they study for the test, they will do better than if they do not. They should know that they will not be graded on a curve but according to whether they have mastered what was expected of them.

For the past few years, encouraged by federal funding, nearly every state has been trying to write academic standards, since—sadly—many states had no standards of their own at all. In the

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past, the state governments left the standard-setting to the local districts, and the local districts left it to the textbook publishers and the mass-market test publishers to decide what their standards would be. So we had de facto national standards and still do; but for most students, they are undemanding.

Yet the standards that many states have recently adopted are no less anemic, sometimes even downright empty. Often, the people charged with writing standards can't bring themselves to prescribe what children should learn, so accustomed are they to leaving these decisions to someone else. They shrink from saying that there are some skills and knowledge that all American students need: they really don't want to shoulder the responsibility. In the end, instead of writing standards, state officials offer vague generalities that give no guidance to teachers and students and that can't be tested. So teachers end up left to their own devices in deciding what to teach.

In contrast, nations like Japan have clear and comprehensible standards. Teachers know what is expected of them; so do students and their parents. Everyone understands the goals of each grade, and each year builds on the work of the previous year. Teachers can collaborate with one another, helping prepare good lessons, because they have common goals. They can figure out how to get the big ideas across to their students, because their job is to be good teachers, not curriculum writers.

Painful as it is for most state education departments to come to grips with standards, they are beginning to do so, however slowly or reluctantly. But a few—notably, California, Massachusetts, Texas, and Virginia—have developed real standards that can serve as a lever for those states to raise achievement and help children make progress each year.

One reason states are making this effort is the enormous support for standards among students, teachers, parents, and the general public, as a revealing series of polls by Public Agenda shows. About the only group genuinely dubious about standards is . . . education professors. Students say to the pollsters, "If you expect more of us, we will learn more." Parents of every racial and ethnic group say, "We want higher standards and higher achievement in our children's schools." More than eight out of 10 parents want schools to "push students to study hard and to excel academically."

As part of the push for standards, poll respondents say they reject social promotion. Four out of five parents—and three out of four teenagers—say that schools should "promote kids to the next grade only after they show they have learned what they were supposed to." After all, social promotion—promoting students who have not mastered the work of their grade—is no favor to kids, even though some educators defend it as compassionate, on the grounds that holding a kid back damages his self-esteem. These educators don't consider how much more damage it does to a student to be advanced to a grade where he can't understand what is going on or keep up with his classmates. Several high school principals have told me about students who enter ninth grade with fourth-grade reading skills: they can't read their assignments, they fall further and further behind, and they are prime candidates for dropping out. As one principal said to me, "It should be a felony to promote a student to high school who never learned to read, write, or do basic computation." The way to think about social promotion is by analogy to swimming lessons: if the student is sent to a deeper part of the pool as he gets older, so he can be with the older kids, regardless of whether he can swim, at a certain point, the water will be over his head and he will drown.

The failure of 59 percent of would-be teachers on a required test in Massachusetts sent a shock wave across the nation.

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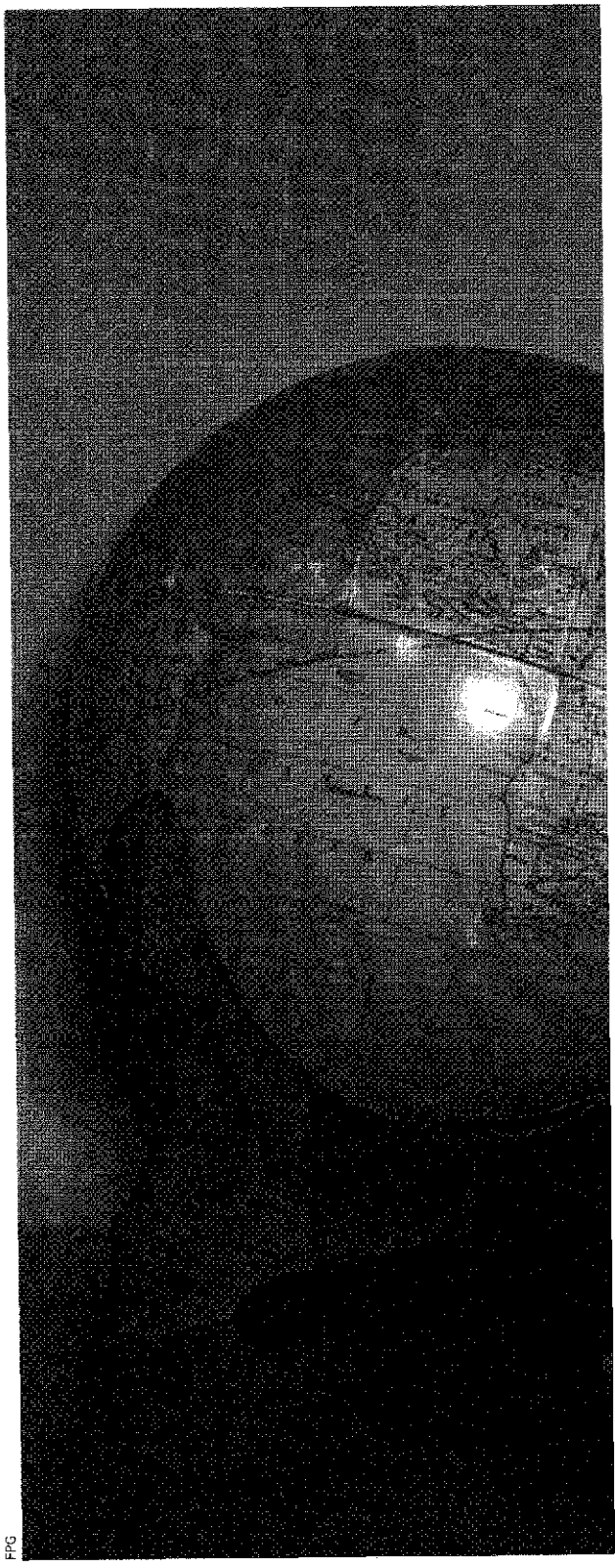
Today, for the first time in many years, school districts around the nation are putting a halt to social promotion, and New York chancellor Rudy Crew has promised to eliminate social promotion in New York City's schools in the year 2000. This means that schools will now have to find strategies to teach the kids who haven't learned. But this is far better than promoting them and concealing their failure.

Public education needs a second set of changes—changes that center on choice and deregulation. As with the push for standards, these changes also have the backing of a national movement of great consequence for the future of education.

The demand for choice comes from many directions. It comes from parents who don't understand why they can't choose their children's schools, and especially from poor and minority parents who don't see why their children should be compelled to attend schools with terrible performance records. The demand also comes from policy makers and businessmen who believe that competition is an integral part of quality: that without incentives to do a better job, poor performance—sheltered and rewarded by government bureaucracies comfortable with the status quo—will flourish. Already, the choice movement is having a large impact on American education, especially because it converges with efforts to break away from the stultifying, bureaucratic governance that typifies urban public education.

The charter school movement, with its bipartisan support, is one major expression of the push for choice and deregulation. On December 18, 1998, New York became the thirty-fifth state to enact a charter school law. Currently, nearly 1,200 charter schools serve over 250,000 students nationwide.

Charter schools are public schools. They agree to produce results—that is, meet the state's academic standards—in exchange for autonomy. They get a real budget and real decision-making power: they can hire and terminate their staff, for example, or decide how to allocate their



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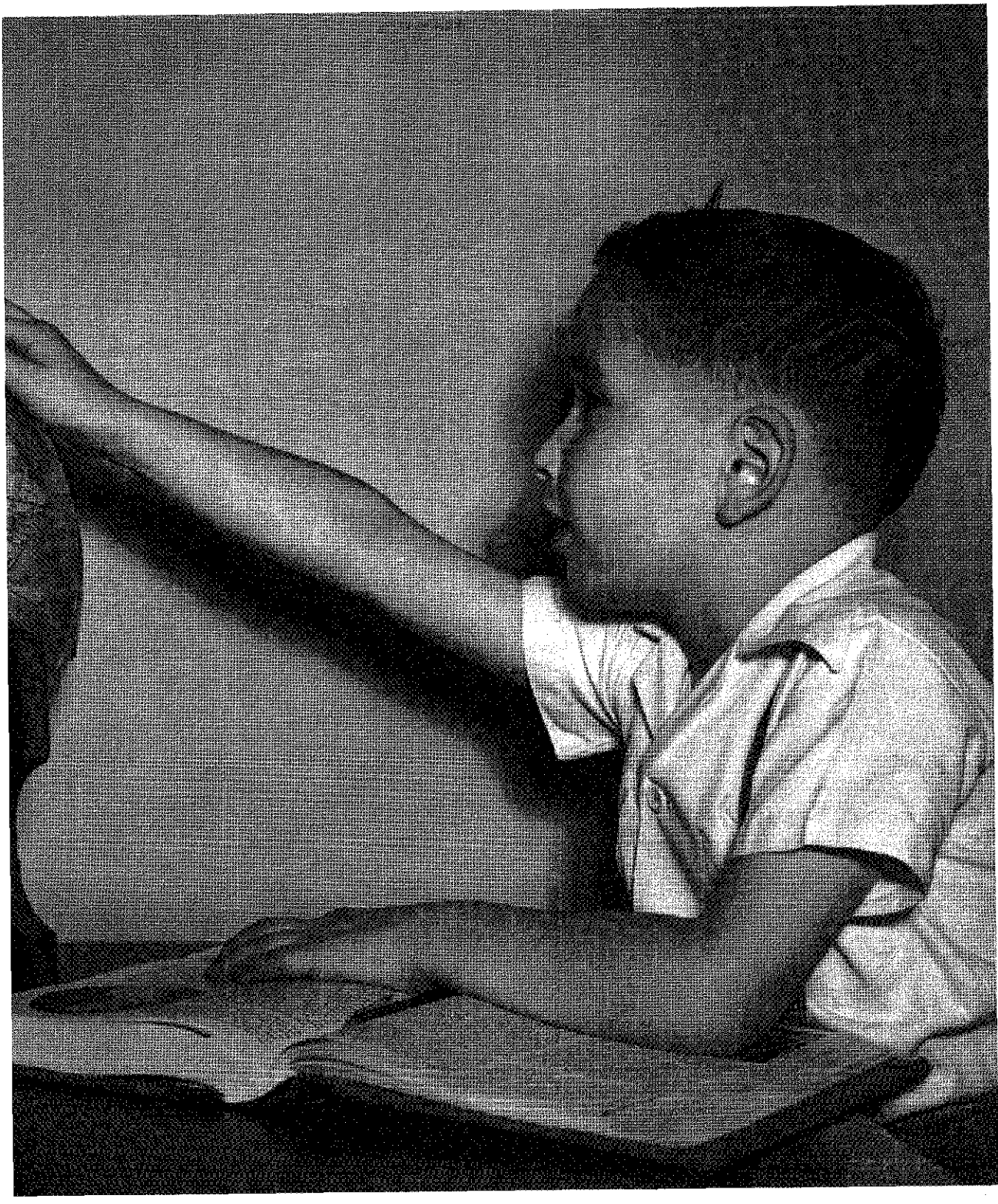

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resources in the school, or buy their supplies from any vendor they choose. They span the philosophical gamut, from progressive to traditional, but they have in common small class size, a strong sense of mission, and a keen sense of community. If they don't perform, they lose their charter, usually granted by a state agency, to which they are accountable. If they don't attract students, they don't survive. Charter schools may get some start-up financing from the state or the federal government, but their operating budgets depend on enrollment, as public funding follows the students.

The New York charter law will initially permit only 100 charter schools, half of which will receive charters from the State University of New York, and half from the Board of Regents. These schools will receive complete autonomy from their local school board but will be required to administer the same exams as other public schools and meet the same state academic standards. Interestingly, the law specifically permits single-sex charter schools and frees the schools from all rules and regulations except those governing health, safety, and civil rights. Teachers in charter schools with a first-year enrollment under 250 do not have to join the union but may elect to do so. Even if these schools' enrollments exceed 250 in subsequent years, they can remain free of the union.

The other main form of choice is a voucher system, targeted specifically for low-income children, those at greatest risk of failing and dropping out. A voucher is, in effect, a public scholarship, giving eligible children public funding to enable them to attend a non-public school. Two cities, Milwaukee and Cleveland, presently have publicly funded voucher programs for poor kids, and both cities allow children to use these vouchers in sectarian as well as nonsectarian schools. The strongest support for these programs, public opinion polls show, comes from low-income minority parents. While these experiments are too new to say conclusively whether the low-income kids who attend non-public schools in Cleveland and Milwaukee are learning more, studies from different camps agree that parents of children in choice schools are more satisfied than those who remained in regular public schools. Another clear result of the voucher program so far is that the regular public schools are working hard to retain students and compete with the non-public schools.

Similarly, most charter schools are too new to evaluate confidently. Even so, in a recent study of charter schools in Arizona—which with 271 charter schools has the most in operation of any state—Robert Meranto of the University of Virginia concluded that the presence of charter schools actually led to improvements in the regular district schools. The competition they offered stimulated the district schools to innovate, stirring them to increase their use of phonics, to set up magnet schools, to produce more information about performance, to expand their arts programs, extend their hours of operation, and make greater efforts to involve parents. Besides inspiring reforms by the regular schools, another positive effect of charter schools has been to help equalize funding across district lines, since state funding follows the student. This study suggests that charter schools are good not only for the kids and parents who choose them but also are good for teachers who decide where they want to teach and for the regular district schools.

Some education-policy analysts, like Paul Hill of the University of Washington, think that all public schools should operate with a contract or a charter. Fundamental to good schools, Hill says, is the principle of "subsidiarity"—a concept, borrowed from the Catholic Church, that every action ought to be taken at the level of organization most likely to understand its consequences. In most cases, this concept suggests, power and authority should be lodged at the school site, not with a dominant central organization. A few years ago, in the same spirit, the New York City Partnership proposed that the city should have not a school system but "a system of schools," in which decision making, resources, and accountability would be devolved to individual schools. Devolution, subsidiarity, accountability: these are missing ingredients in urban education. School principals

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must have the authority to make decisions that count, and they should in turn be held accountable for student performance.

Friedrich A. Hayek explained long ago that centralized "command-and-control" regulation seldom is efficient, because the people at headquarters always have a crucial deficit in information; they never know as much as the many thousands of people who are out in the field. Hayek's analysis applies perfectly to a major problem in education today, where inefficient centralized systems, created a century ago at a time of high enthusiasm for the rule of experts, make uniform rules for every imaginable situation and hire layer upon layer of supervisors, draining initiative and resources away from the principals and teachers who actually deal with the problems of individual children. To the central administration should go responsibility for setting standards and auditing performance; to the schools must go the freedom to be flexible, imaginative, responsive, and responsible.

Certainly the New York City school system is an antique, centralized, command-and-control bureaucracy; it must be considered a classic of its kind, having survived for a century with only minimal changes in its manner of functioning. Ignoring everything that has been learned about modern principles of management, the system tries to manage some 1,100 schools from central headquarters. To improve student performance and to unleash the energy and creativity of the city's educators, the system badly needs structural change. To this end, City Hall should push to break up the Board of Ed's iron control over every detail of school administration, in favor of a "system of schools" proposed some years ago. City officials should promote an array of reforms, from charter schools to allowing schools to be run by contract with organizations like the Edison Project to permitting schools to contract for such services as meals, supplies, and maintenance. The school system should encourage choice for students, competition to achieve higher student performance, and clear standards by which to judge whether students are progressing. As the city introduces these structural changes, it should establish a salary scale for the city's teachers and administrators that closes the gap with nearby suburban districts, with larger increments for improved student performance. The city can't expect to attract or retain talented educators when the pay is noncompetitive. Alternatively, public funds should follow the child to the school of his choice, with more funding for those children whose needs are greatest; were this done, schools that recruit poor and disadvantaged youngsters would be awash in funds, with money enough to pay the best salaries and attract the best teachers.

Across the country, reformers are trying to transform public education, looking for ways to allow choice, set standards, reduce bureaucracy, flatten middle management, and shift decision making to the schools. Current trends suggest that we will have a public sector that includes standards, choice, deregulation, charter schools, and even—if the courts agree—scholarships for poor kids. Public education will not only survive; it will be far stronger.

The school system should encourage choice for students, competition to achieve higher student performance, and clear standards.

Change is happening; it cannot be stopped, though, of course, it can be slowed, delayed, and compromised. But eventually, our society must face up to the challenge of educating all children. As Robert Hutchins said, "Perhaps the greatest idea that America has given the world is the idea of education for all. The world is entitled to know whether this idea means that everybody can be educated, or only that everybody must go to school." It is the job of our generation to answer that question in a way that meets our highest ideals as a nation. ●

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Foster Care's Underworld

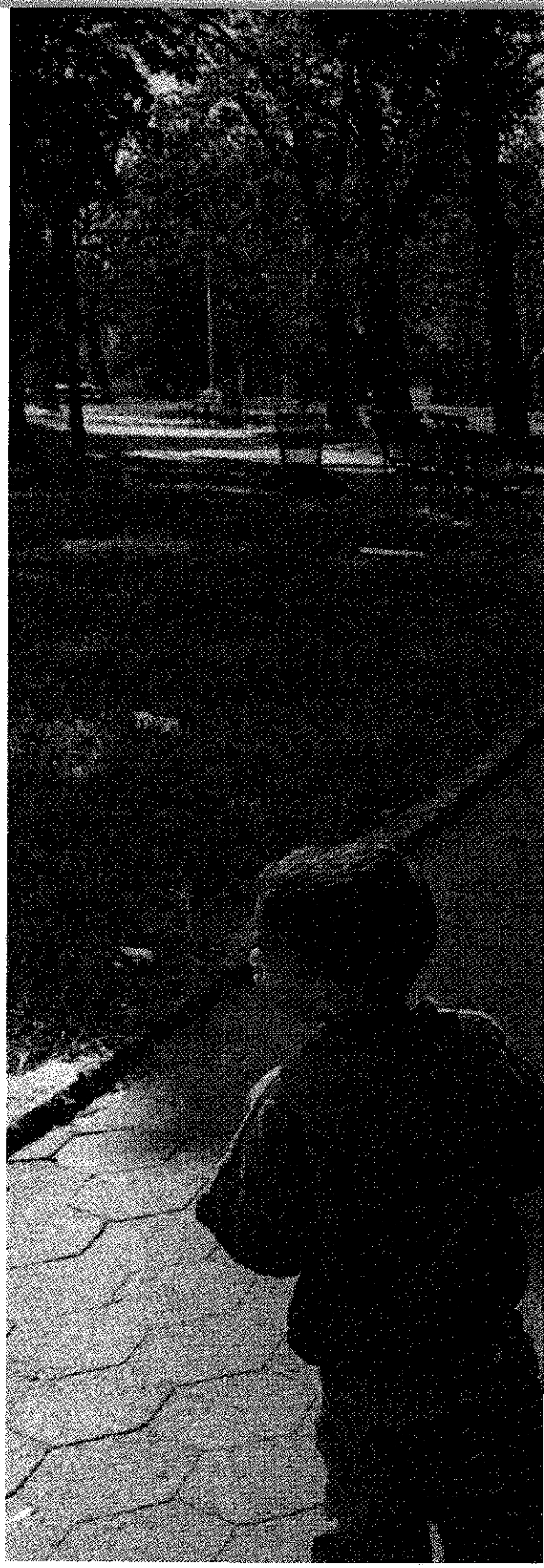
Heather Mac Donald

The nation's foster care system has given rise to an unnoticed and deeply troubling reality: not only has it accepted the inevitability of legions of abused and neglected children, but it has made them into an integral part of the inner-city economy. For every child put into foster care, the foster family—which may be complete strangers or only a slightly different configuration of the child's birth family—gets a subsidy two to three times larger than what ordinary welfare pays. Whole communities of grandmothers are living on the money they receive for their abused or neglected grandchildren. Welfare advocates treat foster care payments as just another routine way to pump government money into troubled neighborhoods.

Two vast, obdurate realities fuel this foster care economy. First is drugs. One recent study of foster care in New York City found that about three-quarters of the birth mothers abused drugs. Some 24 percent of children in foster care in the city are born with drugs in their system, a number likely to grow if the national trend of increasing births to crack-addicted, impoverished mothers continues. Mothers waiting for their cases to be heard in family court sometimes nod off or disappear from the courthouse to score.

Foster care, with its traffic in abused and neglected children, has become integral to the inner-city economy. Advocates, who should be horrified, are eerily calm.

The other overwhelming fact of the foster care economy is the explosion of the traditional two-parent home into a dizzying array of intersecting family fragments. Family court is where the worst problems of our post-mar-



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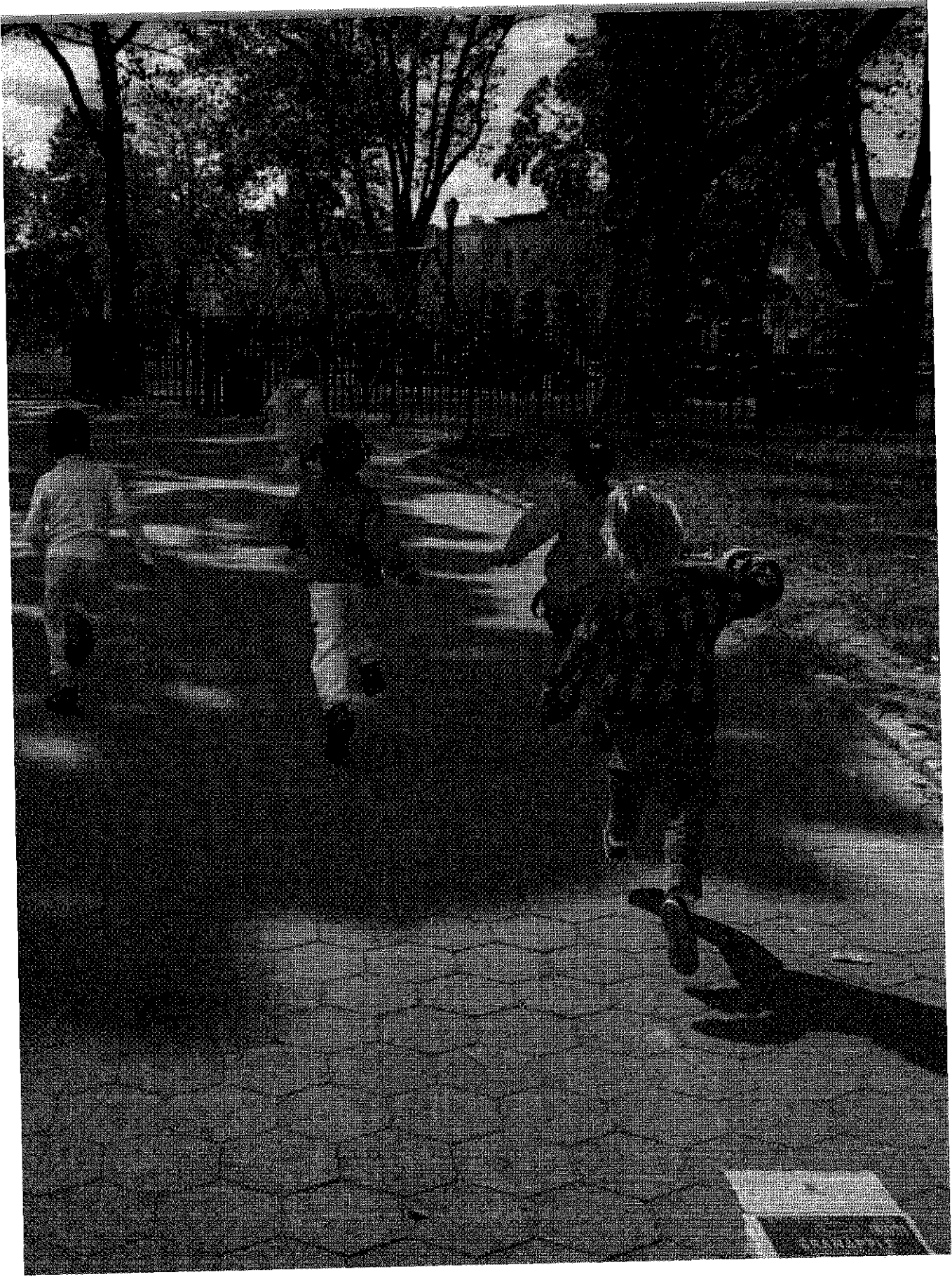

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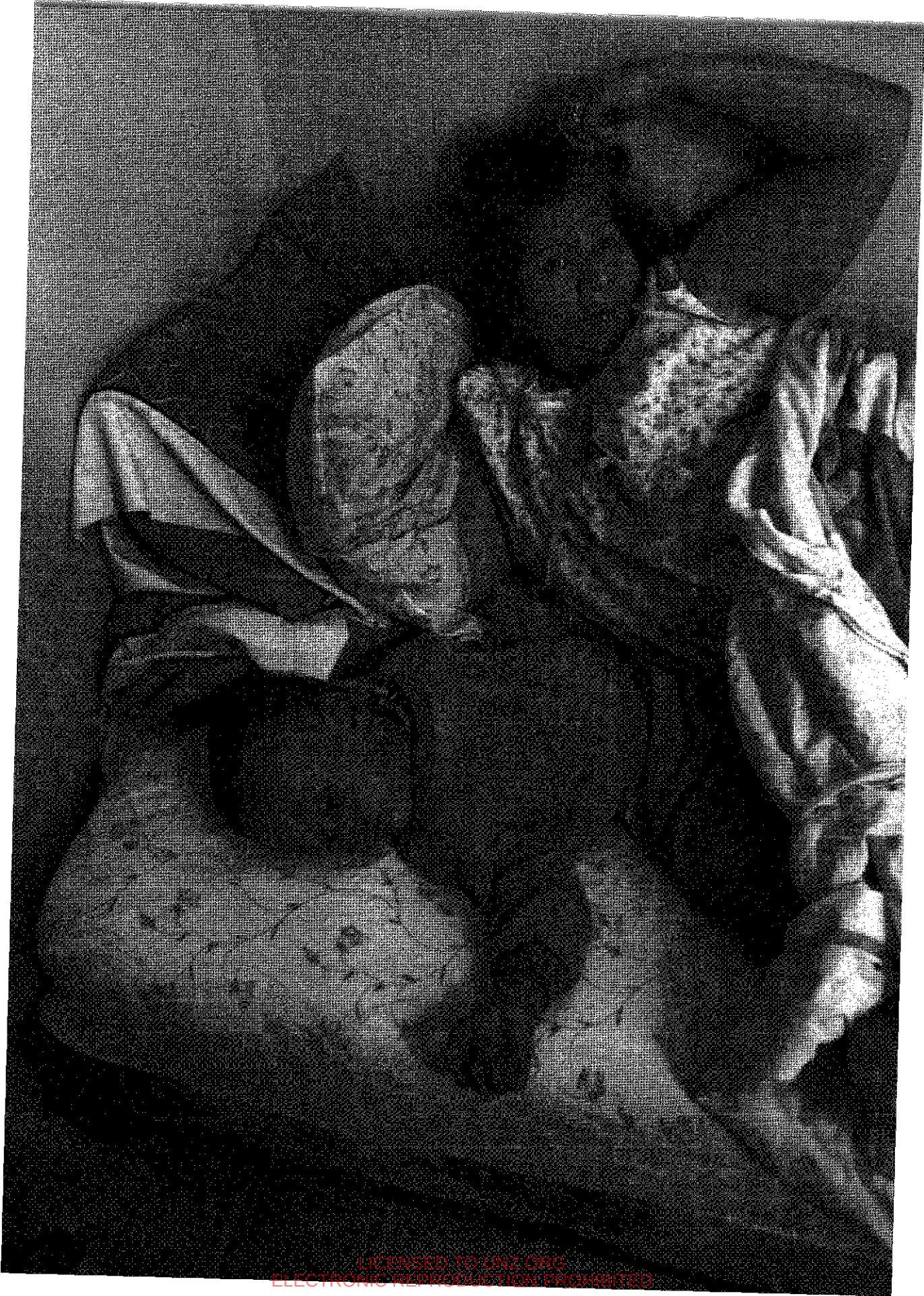

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riage era reach their nadir. Any single-mother household in the system most likely has several different biological fathers attached to it, and each of those fathers probably has children across the city with several different mothers. The mantra of the foster care functionaries is "family preservation"—maintaining children with their abusive or neglectful parents whenever possible. Yet to speak of "family preservation" in this context is fanciful; which combination of fathers and mothers and half-siblings should we demarcate as the family unit? Though married couples are not absent from family court, they are not common; a 1989 British study found that coming from a single-parent home was the most significant risk factor for a child's admission to foster care.

Rather than working to ameliorate these hard realities, the foster care system runs a great risk of enabling them. It allows families to accommodate, and even profit from, their dysfunctions. Self-appointed children's advocates further normalize the culture of single parenting by refusing to make it an issue in children's welfare. The following stories from Manhattan's Family Court illustrate how entrenched foster care has become in certain communities (in Central Harlem, for example, one out of ten children is in care), how rational the calculations of people benefiting from the system can be, and how far the system is from securing the welfare of the children it supposedly exists to save.

"Family preservation" in this context is fanciful; which combination of fathers, mothers, and half-siblings should we demarcate as the family unit?

"What else would you want them for?" snorts Lucille Murray, in response to the question whether she thinks grandmothers seek foster custody of their grandchildren for the foster care payments. The petite Murray, sporting white tennis shoes and a black straw bowler with a bow, has just emerged from Family Court, seeking to wrest custody of two of her grandchildren (along with the attendant foster care payments) away from their maternal grandmother, with whom they are now living. The mother of these two children, Marla Wish, is "one of those street girls," according to Murray—an appellation that embraces a host of possible wrongdoing, from drug use and child abandonment to prostitution and theft.

Wrongdoing seems evident enough when Murray's son Robert and Marla enter the courtroom in handcuffs, roughly shoved along by prison guards. Robert has been in Rikers since 1996, on charges of assault with a deadly weapon. During the hearing, Marla, razor-thin and wiry, sat mute, her chin tucked low into her gray Guess sweatshirt, her eyes raised warily toward the judge. Next to her sat her mother, who, all told, has four of Marla's children in her care. Robert has another child himself, by another woman.

The case, like virtually all in the Family Court, is impossibly complicated, defying the ability even of the judge to disentangle. The parties present a welter of contradictory petitions to, and custody rulings from, courts in three boroughs, applying to an array of children by various fathers and mothers. Merely trying to figure out where Robert and Marla's two children have been over the years is taxing; the maternal and paternal grandmothers both claim that they have been caring for them. The judge adjourns the hearing without a resolution (like most Family Court hearings), and the case reenters Family Court limbo.

Outside the courtroom, Murray, barely articulate in court, comments on her opponents. "Her daughter and her cooked this up," she sniffs. "They never done anything for [the children], but they're using them for this welfare thing." Murray claims she found burn marks on the children after they were in their other grandmother's care. How do you know that their motivation is financial? I ask. "How could she live without it?" Murray replies. She laughs. "My friends are having a ball

The foster kids playing in the park (previous page) have drug-addicted mothers who gave them AIDS, as does this child napping with his foster mom.

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with that money and their grandchildren; they're going all over the world. They want that money! If you get the foster children, you get big bucks, you can buy nice clothes. They get the opportunity to go places they never went. They all get food stamps," she adds.

A caseworker at a large foster agency confirms Murray's economic analysis. "For people on public assistance, $500 a month [a typical per-child foster care payment] is a lot of money," she says. "They're not using it totally on the kids. If Section 8 pays for housing, and you're getting public assistance—which is not taxed—you can't spend $500 a month on food. They don't pay for the children's clothing or their medical needs, and we reimburse transportation." If the children are disabled or emotionally disturbed, monthly payments can reach $800 a month. The caseworker recalls a grandmother with five grandchildren who collected $3,000 a month for three years, while living in a "disgusting apartment in a scary building." Thereafter, she bought a beautiful town house, cash down. Another caseworker tells of foster parents under her supervision who have never had a job but who have a Jeep Cherokee and a house in the South. "It's an industry for quite poor people," she concludes.

A caseworker tells of foster parents who have never had a job but who have a Jeep Cherokee and a house in the South.

The Murrays and the Wishes (pseudonyms, like all the names of aid recipients in this story) demonstrate how easily kinship foster care, a humane idea, can produce serious unintended consequences. Kinship care—which child-welfare authorities must try to arrange before finding unrelated foster parents, if at all possible—is meant to decrease the trauma for a child removed from his mother, and undoubtedly it often does so. But it has also become a major financial support system, perversely turning the production of neglected children into a family business. (Relatives receive the same foster care payments as unrelated foster parents.) Children remain in kinship foster care much longer and are less likely to be adopted than children placed with unrelated families, suggesting a possible perverse incentive structure. Poverty advocates well understand the economic role of kinship care in underwriting poor communities. Any sign of flagging kinship-placement rates produces cries of alarm; advocates managed to exempt kinship foster care from the time limits in a recent federal foster care reform bill, thus preserving it as an open-ended entitlement.

By no means do all families see kinship care as a financial opportunity. I spoke with many families in Manhattan's Family Court whose all-consuming goal was to get a troubled relative and her children out of "the system" and into their unsubsidized care as soon as possible. But enough families treat foster care as a subsidy that policy makers had better start paying attention.

Olivia Darwin views foster care as an entitlement. "I haven't been this pissed off in a long time," she fumes, as we go swooping toward the courthouse elevator banks. A strongly built, forceful woman of 50 with short-cropped hair, Darwin is angry because the city won't put her youngest grandchild, aged three, "on the system." She already gets foster care payments for her 11- and 12-year-old grandchildren, whom she has had all their lives. She is in the process of adopting those two children but admits she may not be doing her part: "They [the city] want medicals so often, it's nonsense." (Foster care workers complain bitterly about the difficulty of getting relatives to comply with foster care requirements, especially medical exams.) Darwin's daughter has two other children who have been placed outside the family. But the three-year-old, with Darwin since she was six months old, is in a legal no-man's-land, since the city did not officially place her with Darwin.

Now Darwin faces a dilemma. Though she once worked briefly in construction in order to qualify for a HUD-subsidized house, she now gets home relief, the welfare program for childless adults,

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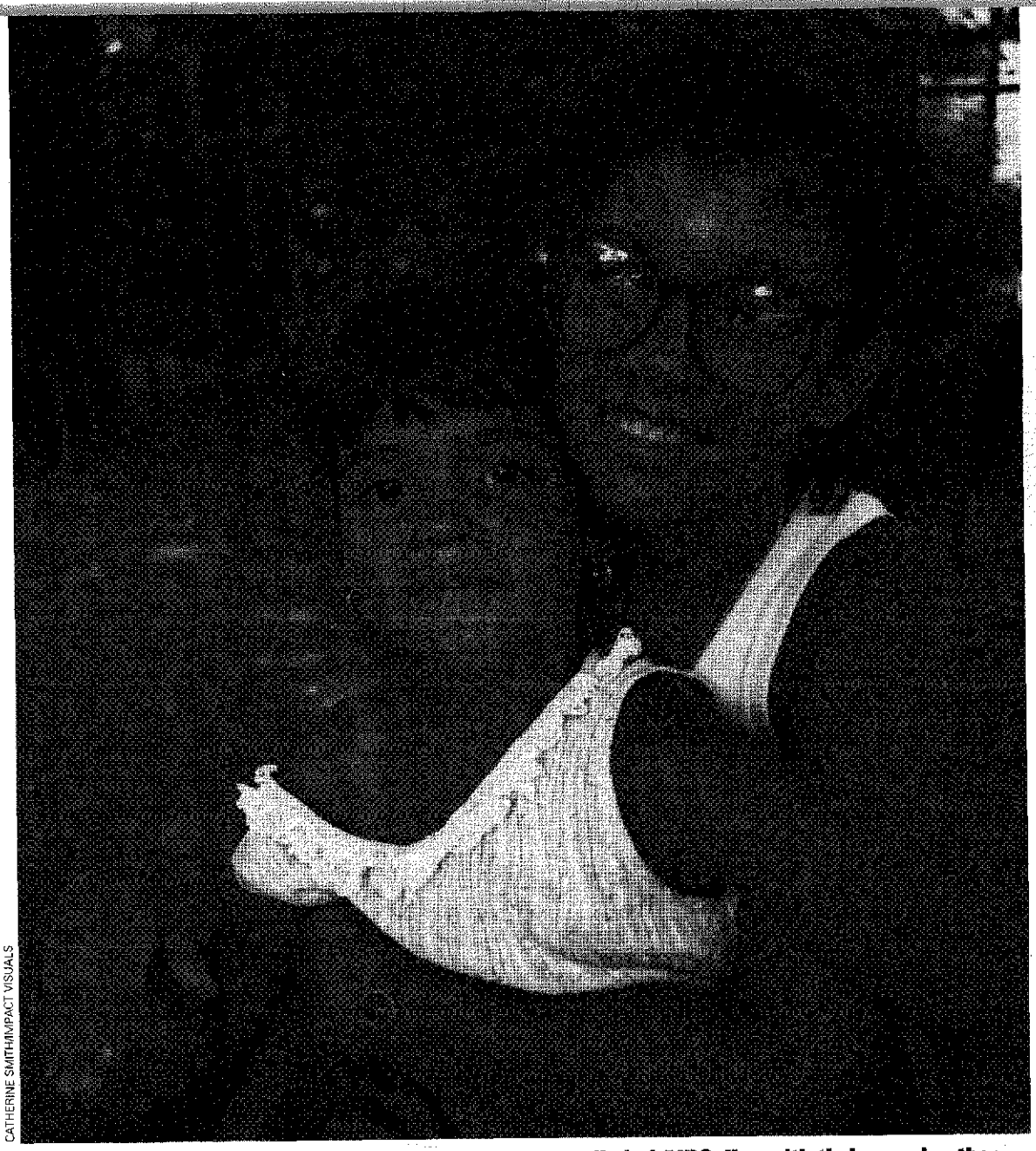

CATHERINE SMITH/IMPACT VISUALS

Like many foster care kids, these sisters, whose parents died of AIDS, live with their grandmother.

and food stamps (in addition to the foster care payments), and in return the city wants her to do workfare. She is refusing, on the grounds that she has her three-year-old grandchild at home and should be exempt. As Darwin tells it, the city says that if she puts the child on AFDC—Aid to Families with Dependent Children—she would be exempted from workfare, but she is holding out for the far higher foster care payments. She has been to eight disciplinary hearings in the past three months over her failure to do workfare.

Her daughter is "on the street" but not out of touch. Does Darwin see her? "Of course I see her!" Darwin shoots back, incredulous at so foolish a question. Such maternal visits almost certainly violate the foster care agreement that put the two older children in Darwin's care. Darwin won't be seeing her daughter for a few months, however, since the daughter just got sentenced to a year. For what? "Whatever she does to support her habit." In the meantime, Darwin won't be accelerating the adoption process; she knows of too many people, she says, who stopped receiving payments once they adopted.

Darwin's open-door policy toward her drug-addicted daughter is typical in kin cases.

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Caseworkers despair of keeping the mother, who may still be dangerously abusive, away from her children when they are placed with relatives. Sometimes the living arrangements make contact inevitable. A lanky, heartbreakingly passive 19-year-old, sitting listlessly on the ninth floor of the courthouse, has been in foster care with his grandmother, along with his brother, since he was one. He has apparently fallen through the system's cracks, for at his age, unless he is in college or a training program, he should no longer be in foster care. Still in the tenth grade, the boy sports a sapphire stud in his ear and a beeper. His two cousins also live with his grandmother, who apparently has a propensity for raising troubled children. His mother visits every day, since she lives "next door, just around the hall," he says; his aunt—the mother of the two cousins he lives with—also visits regularly. "It don't matter who you live with, your mother or your grandmother," he says, summing up the de facto policy in many kin cases.

The prize for efficient and profitable use of the porous boundaries in kin cases surely belongs to the Rodriguez family: Ann Rodriguez, in her mid-forties; her three daughters, Janet (26), Marisol (19), and Pia (16); and three illegitimate grandchildren, including Marisol's 18-month-old daughter. Ann and Marisol are in court for Marisol's yearly extension-of-placement hearing. For the past six years, the outgoing Marisol, her baby, and her younger sister have officially been in the kinship foster care of the older sister, Janet. But while Janet has been collecting $1,400 a month in foster care payments, along with federal Section 8 housing vouchers for a three-bedroom, $1,200-a-month duplex apartment big enough to house herself, the two girls, and the baby, the girls have actually been living in their mother's East New York studio apartment, along with the baby. Janet, seizing the opportunity, has been renting out the room supposed to be Marisol's. The family splits up the foster care money according to an elaborate system of internal payments that also draws on a diverse pool of additional welfare benefits, from AIDS money to food coupons for infants.

However orderly its current internal trading system, the family has a highly troubled, taxpayer-subsidized history. Ann, the matriarch, has used drugs since she was 12 and is now on methadone. Small, high-strung, and good-natured, with two sandy braids down to her waist, Ann has lost most of her teeth to the addict's life, which has also left her with HIV and hepatitis C. In the late 1980s and into the 1990s, she recalls, her husband—now dead—"was shooting heroin like a bandit," as was she. Nevertheless, she was working for the Transit Authority while illegally collecting $500 a month in welfare and food stamps.

Around 1990, the family lost its apartment and ended up traveling from shelter to shelter. Ann's husband ran away but returned; the city rewarded the newly reunited couple with a five-bedroom subsidized apartment in Harlem. The husband was getting Supplemental Security Income payments for AIDS, while Ann was still collecting welfare. "I told him: 'When your money comes, we can party; when my money comes, that goes into the house,'" Ann recalls. The family rented out rooms in their subsidized apartment to drug dealers for $50 a week. She maintains that she and her husband shot up and smoked crack only when the children were in school or in bed—unlikely but, even if true, hardly adequate to protect the children.

Ann kept going to jail on shoplifting charges, and she thought she had an understanding with the oldest daughter, Janet, about child care while she was gone. "I would tell her before I went in," she says, "to take the kids and put them on AFDC"—for which Janet would have been eligible as the girls' non-foster caretaker. In this way, Ann hoped to avoid charges of abandonment and potential loss of parental rights. She undoubtedly didn't grasp the financial superiority of kinship foster care over AFDC at that point.

Ann believes that Janet betrayed her. She claims that during one of her prison stints six years ago, Janet reported her to the city's Administration for Children's Services (ACS) as a drug addict, so that she could get foster care payments for the girls. "Janet knows the advantages of foster care," Marisol breaks in; "she involved ACS because of the money." Ann and Marisol were adamant that

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Janet not know that they had spoken to me, so I have not confirmed their tale.

For a while after Janet gained foster custody of the girls, Ann, back on the streets, lost contact with all three. Then, about three years ago, Ann's husband died, and Marisol, shaken by the loss of her father, started drinking, stopped going to school, and tried to commit suicide. She entered Payne Whitney psychiatric institute, was put on Prozac, and was discharged to a group home rather than to her sister's. "The group home wasn't bad," she recalls. "They had a closer leash on me—they made sure I made and kept appointments, because these were foster parents, not my family." But Marisol grew homesick, and besides, she says, people at the group home were stealing from her. She went AWOL and returned to her sister. "No one came looking for me," she laughs, with her customary broad smile. "I called my foster care worker and said: 'I'm not at the group home, you know.'"

The agency, a Jewish foster care organization, never investigated when Marisol's younger sister, Pia, dropped out of high school, either. Janet's supervision of Pia was almost equally lax. Pia began selling drugs. Her mother blames Janet's poor oversight: "Janet would ask her to do errands, instead of going to school, and she would do drugs." Is she using drugs now that she's back with you? I ask. "Nah," Ann responds, then qualifies her answer: "If she is, it's not like before, when she wouldn't look me in the eye."

In January 1995, Ann, still shooting heroin, got arrested again and learned she had HIV. The good news: she became eligible for the city's Division of AIDS Services' (DAS) welfare programs. DAS found her a series of apartments, rent-free, including her current $553-a-month studio; it also provides her with $120 a month in food stamps and almost $300 a month in cash.

A year or so thereafter, Janet started demanding that Marisol cook and clean for Janet's six-year-old daughter. "'I'm not going for this,' I said," Marisol explains. She moved in with her mother. Pia eventually came, too. The arrangement is highly illegal; besides the fraud of Janet's taking foster care payments for sisters no longer in her care, the girls are not even supposed to visit their mother without agency supervision. Now Pia wants to move back in with Janet, but Janet says she has no space because of her paying lodger. "She's on that system good," marvels Ann. "But she's not a criminal. If she was criminal-minded, she could really make out." It's hard to imagine what further advantage of the foster care system she could take, however.

With the girls at Ann's, the family has developed its own internal economy. Janet gives Marisol and Pia $350 a month each—half of the foster care payments—out of which they each give their mother $20 a week for baby-sitting and $40 a month for the phone and food. Janet also gives Ann $40 a month for baby-sitting her six-year-old daughter.

She maintains that she and her husband shot up and smoked crack only when the children were in school or in bed.

Ann was baby-sitting her three granddaughters—by Janet, Marisol, and a 30-year-old son—when I visited her one October Sunday in her studio. Janet was at her job as a restaurant manager; Marisol and Pia at their jobs at Kentucky Fried Chicken. The apartment building sits on a wide East New York avenue, next to a high school with a verdant lawn. The entry door is broken; a liquor bottle litters the stairway.

Ann, in shorts and a striped tank top, is making frozen waffles and bacon for her grandchildren in a toaster oven on a card table by the entrance. The children bounce on the two big beds while the TV blares. When the girls become too rambunctious, Ann shouts: "Don't disrespect me, please!" The apartment, though cluttered, appears clean. Boxes and folded comforters are piled up against the walls; a tall, mirrored chest of drawers draped with a Puerto Rican flag separates the two beds, near which hangs a framed and decorated poem:

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"Before love blooms/ It gets its start/ Deep within a mother's heart."

While Ann serves the children at a brightly colored plastic baby table, she explains her most important role in the family economy: as a gofer for federal entitlements. She does the footwork for recertifying Janet for Section 8, providing the necessary documentation proving the (fictitious) continued presence of the three girls with Janet. Ann also takes Marisol's baby in for lead testing, so as to qualify her for the federal Women's, Infant, and Children (WIC) supplemental food program. Marisol is "too lazy" to take her, Ann gripes. Ann made Marisol sign up for WIC, she explains, because "we can't afford milk"—in spite of the household's monthly cash income of $1,120.

Marisol's infant bites Janet's daughter on the eye, and Ann starts in on Marisol's other failings toward her daughter. She has procrastinated about having her daughter's eyes checked, Ann says, and now she has misplaced her Medicaid card, so she can't get an appointment. Ann also blames her for sleeping through her baby's crying. "One morning the baby had a mouthful of cat food," she recalls. Now, Ann might not seem like the right person to cast the first stone regarding child rearing, but the family has a penchant for recriminations, especially regarding their foster care entitlements. Marisol blames Janet for ignoring her and Pia's medical rights: "[As foster children,] we have medical requirements, such as eye exams, and my sister is supposed to get braces. But Janet doesn't follow up." Ann blames Janet for buying the girls cheap and shoddy clothes with the foster care clothing allowance.

People on welfare, including foster care, are as painstaking as anyone else in weighing their options.

But despite the sniping, the family seems to have achieved some measure of stability. In the courthouse for Marisol's 12-month extension-of-placement hearing, Ann and her daughter conspiratorially mock the counseling sessions they are required to attend before Ann can officially get her daughters back. "We're not therapy people," Marisol says, rolling her eyes. When Ann throws a fit after learning that their case has been put off for the next day—an all-too-frequent affront to families in the system—Marisol maternally tries to calm her down. "They're watching you, Mommy; you're not helping your case," she says, adding to me, "They say she's argumentative." Ann keeps screaming in a high-pitched voice that the system is not meeting her needs.

Even so, the family is in no hurry to get out of it. "I'm dependent on money from my sister; my sister is dependent on that money, too," Marisol explains. If Marisol were to leave foster care and go on AFDC, she would get $220 in cash a month, less than she is now making on the system. Their city overseers are in no hurry, either. There is a winking acknowledgment among them of the illegal living arrangements, according to Marisol. Marisol's government-funded law guardian has told her: "'You want to live with your mother, right, so why not sign this 12-month extension and not rock the boat?'" Marisol has answered the phone twice when her social worker called her mother's house; the worker told her to go back to Janet's but has not followed up on the order.

Ann never made it to the rescheduled placement hearing the day after their case had been adjourned. "When I go through stress, my body hurts," she explains several weeks later, "so I couldn't get up. I said to myself, 'Let me go to the [methadone] program first.'" By the time she got to court, she had missed the hearing. It has been rescheduled yet again—along with hundreds of other hearings for which the parties never show.

Now, as dysfunctional families go, there are undoubtedly worse ones in the foster care system than this one. I heard no evidence that the parents had physically or sexually abused the girls. And to varying degrees, the girls seem to have landed on their feet more than would have been expect-

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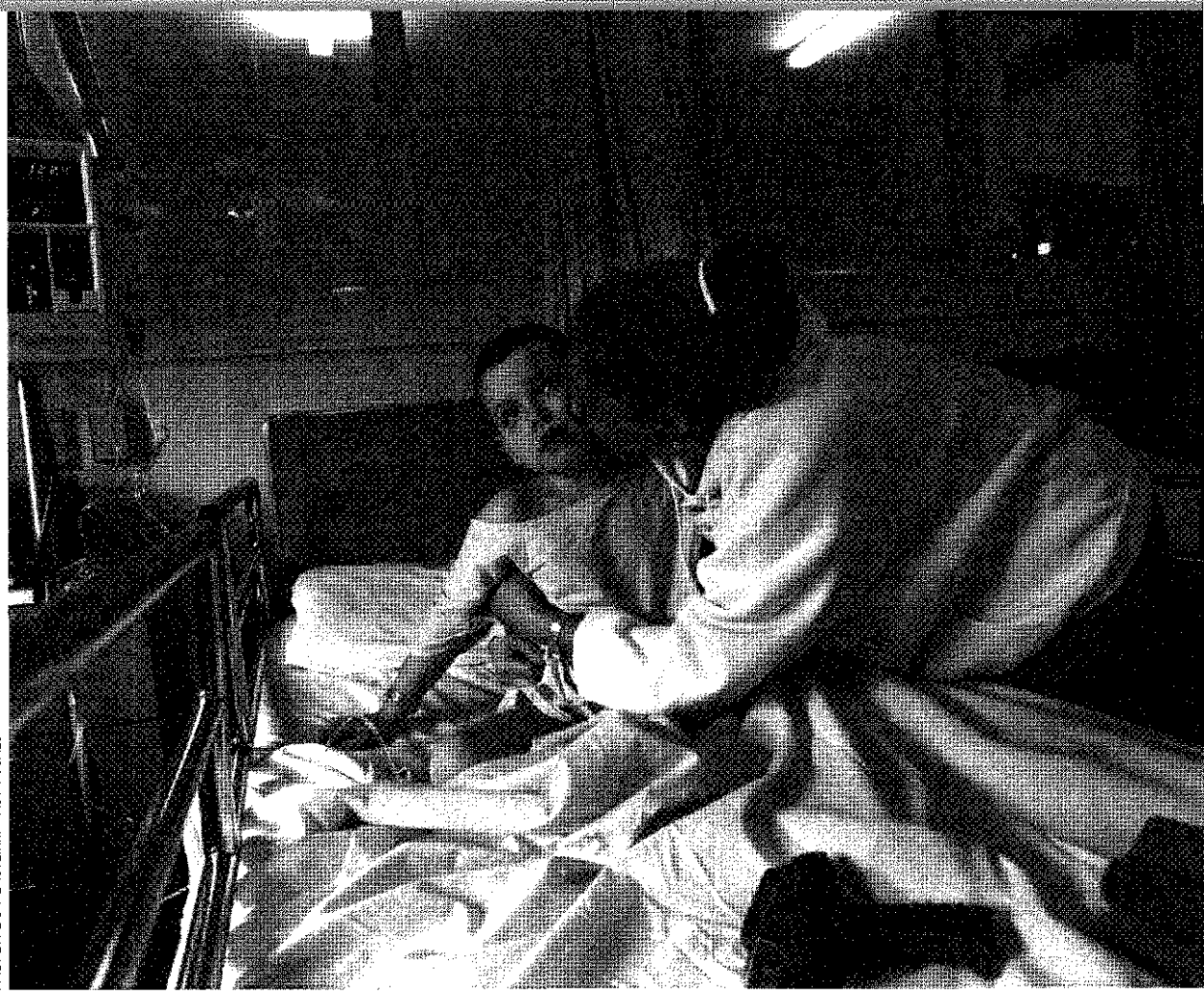

ANDREW LICHTENSTEIN/IMPACT VISUALS

A foster mother's Christmas morning visit to her foster child, born with AIDS.

ed. Nevertheless, as I left Ann's apartment, I saw a troubling sign that the cycle may be repeating itself. Janet's six-year-old daughter, who had been quietly drawing, gave me a poem she had written and cut out in a diamond shape:

my mom is like witch
my granma is glad
my mom is scary
I loue [sic] *granma and my mom*
frfriends.

This family's rigorous calculations are typical; people on welfare, including foster care, are as painstaking as anyone else in weighing their options. Nor is the family's current defrauding of the foster care system unique; overworked or indifferent social workers regularly turn a blind eye to major rule violations in kinship and non-kinship cases. But the kinship system is especially difficult to police, given the blood ties between the birth parent and the foster parent. While thousands of upright kin foster parents are saving their relatives' lives, policy makers must more seriously balance the risks of placing children with their relatives against the advantages. As University of Pennsylvania child-abuse expert Richard Gelles explains, kinship care requires a suspension of academic knowledge regarding the intergenerational transfer of dysfunctionality.

Here in Family Court, the parents of a toddler now in non-kinship foster care illustrate the difficulties of reconstructing family in the post-marriage era—difficulties the foster care system does nothing to address. The mother is in the stairwell of the court, cursing, furiously smoking (despite the NO SMOKING signs), and stomping back and forth, while a sweet-faced caseworker tries to quiet her. "I'm going to get some reefer," the woman threatens. She is small, thin, and toothless; her short hair is tightly waved. She produces a photo of her toddler son; her seven other children, she says, with considerable poetic license, are dead—meaning, in foster care or adopted.

Moments earlier, the judge had been about to grant her visitation rights to this latest son, when

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she flew into a rage in court. Wholly taken aback, the judge withdrew her order and instead required the woman's attendance at an outpatient drug program and anger-management classes for six months. She also slapped an order of protection against her for the father of her son.

The father, John, is in court, too. He is a walking compendium of excuses not to marry. Tall and gentle mannered, with a diamond stud in his tooth, he shakes his head at his previous lover's behavior. She once brought a four-foot snake with her to an agency-supervised visit with her son, he recalls, scaring everyone—her son included. Do you intend to marry her? I ask. "Oh, no-o-o!" he laughs, tickled by the preposterousness of the idea. He had been trying to meet her girlfriend at a Narcotics Anonymous meeting, he recounts, but ended up twice having sexual intercourse with her instead. "When I met her," he explains ruefully, "she was not on drugs, and she had teeth." Besides, he has three other kids already, by another two women. The mother of his 17-year-old daughter is dead of asthma, and "it's too late" to marry the mother of his other two sons, he assures me. "We knew each other from high school, and we've gone our own way. Now she's stable with who she's got—although her sons don't like him. But it's not up to them," he adds philosophically, echoing the self-justifications of divorced and remarried parents.

Do you intend to marry her? I ask. "Oh, no-o-o!" he laughs, tickled by the preposterousness of the idea.

Though two of John's children are in foster care, he still considers himself a good father. "At all times I have had a connection with my children," he boasts. His daughter had been placed in foster care first with her half-sister (by another father); now she is in a non-kin foster home. To his disappointment, she refused to visit him in prison, where he spent several years of his early thirties. Now 37, he has been out for two years and clean for three, he says. He thinks he has patched everything together: "The proudest day of my life was my birthday party; all my children came, and my daughter accepted my sons."

John is presently living at a new girlfriend's apartment but assumes this current relationship is not permanent: "We could have a fight," he says, matter-of-factly. With any luck, that relationship will not produce a fifth child. He expects the city to get him an apartment for himself, so he can get custody of his youngest son, the toddler at issue in today's Family Court proceeding.

Perhaps John, currently working as a mechanic, will prove a responsible father, if granted custody. His effort to retain contact with his children is, sadly, unusual. But he lives in a world where expectations for fatherhood are abysmally low, where the marriage norm is nonexistent, and, as a consequence, where having a few children of assorted parentages in foster care is not particularly unusual. By contrast, if John had settled down and gotten married to his first paramour, the chances that half his progeny would be in foster care would be eight times less, according to a study in the *British Journal of Social Work*.

Child-welfare advocates are almost universally unconcerned about the marriage meltdown's impact on children. Ask if the two-parent family is important to child welfare, and they'll give you a breathtaking collection of excuses and evasions. Equivocates Nilofer Ahsan of the Family Resource Coalition in Chicago, for instance: "It's very important for parents to have the support they need when raising a baby. Having two parents of course makes that easier, but it is not the only solution to a set of problems." Equivocates Betsy Rosenbaum of the American Public Human Services Association: "There's a general issue in child welfare that kids do better in families, rather than raised by the state, but what a family is, is open to a lot of interpretation." Equivocates influential New York City child-welfare advocate John Courtney: "I think marriage needs to be looked at in terms of modern society; it's not the legal and religious fact it once was. That does not mean I advocate having no regard for the relations and people present in the home that can

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care for children. . . . The idealized concept of the two-parent family is not happening today."

Given these pervasive apologetics for social breakdown, a recent federal foster care reform act faces an uphill battle. The law aims to shorten the length of time children spend in foster care, and to eliminate the worst abuses of "family preservation." Yet even if the law achieves its goals, the foster care economy will be dented, not dismantled. As long as drug use and out-of-wedlock childbearing remain high, children will continue to need out-of-home care. But foster care, whether kin or not, often merely moves children from one troubled home and community to another.

The new federal bill rightly promotes adoption to end the foster care musical-chair game. But not all children can be successfully adopted. Nationally, nearly 25 percent of at-risk adoptions are terminated, according to the Child Welfare League of America. In her 1997 book, *The Limits of Hope*, Ann Kimble Loux gives a sorrowful account of adopting two very young, seriously abused sisters. Despite the loving midwestern family she offered them, the girls sank into delinquency, school failure, pregnancy, drug abuse, and prostitution. Loux concludes that, for disturbed children, a home is not necessarily the ideal salve; a boarding school or group home that does not make emotional demands that the children are unable to fulfill may be the one environment where they can thrive.

Minnesota has recognized this unwelcome truth and has begun to create stable, academically rigorous boarding academies for children from dysfunctional families. The tuition and board, estimated at $18,000 to $20,000 annually, will be paid with money already allocated for a child's public school, foster care, or other social services. New York should emulate this idea quickly.

The advocates will loudly object that, instead of building "orphanages," we should keep the money in the foster care economy. New York's leaders should respond: no government parenting or early-childhood intervention program has ever been shown to make a lasting difference in inner-city children's lives, even when those children do not have parents that abuse and neglect them. The notion that more parental services will solve the problems of the city's most unfortunate children is nothing but politics. For example, even if the city were to beef up its drug treatment services—a major demand of parent advocates—no one knows if many more mothers with kids in foster care would use them: currently, 68 percent of such mothers provided with drug treatment fail to cooperate. Rigorous and well-managed boarding schools, by contrast, could give the children of these mothers a fighting chance of success.

For babies born with drugs in their systems, the government's response should be much more child protective. Currently, New York City may not initiate a case for child neglect or abuse if a child is born with positive toxicity but must send the child home with its addict mother. This policy, mandated by a court ruling and a Cuomo-era regulation, is breathtakingly foolish. It sends the message to drug addicts that the state considers them—not their children—helpless victims, unable to avoid either pregnancy or drug abuse while pregnant. And by sending babies home with their coke-addicted mothers, the state is guaranteeing their further developmental impairment. A woman who gives birth to a positive-toxicity or fetal-alcohol-syndrome baby should be presumed unfit, or at least deemed to have abused her child for purposes of foster care placement. If her parental rights are not immediately terminated, she should be allowed to regain custody of her child only if she can immediately go clean and stay clean for six months; any subsequent relapse should terminate her parental rights. Too much is riding on the child's first years to hold him hostage to his mother's habit.

Like so many of the pathologies of child welfare, the foster care economy needs inspired moral example and suasion to change it, and that requires a real change in our national culture. Community leaders can help future parents understand their obligations, so that they come to parenthood with a deep desire to do right by their children. But while we await that cultural renewal, we need to make sure that the foster care system is not unwittingly perpetuating the very conditions that put children at severe risk. •

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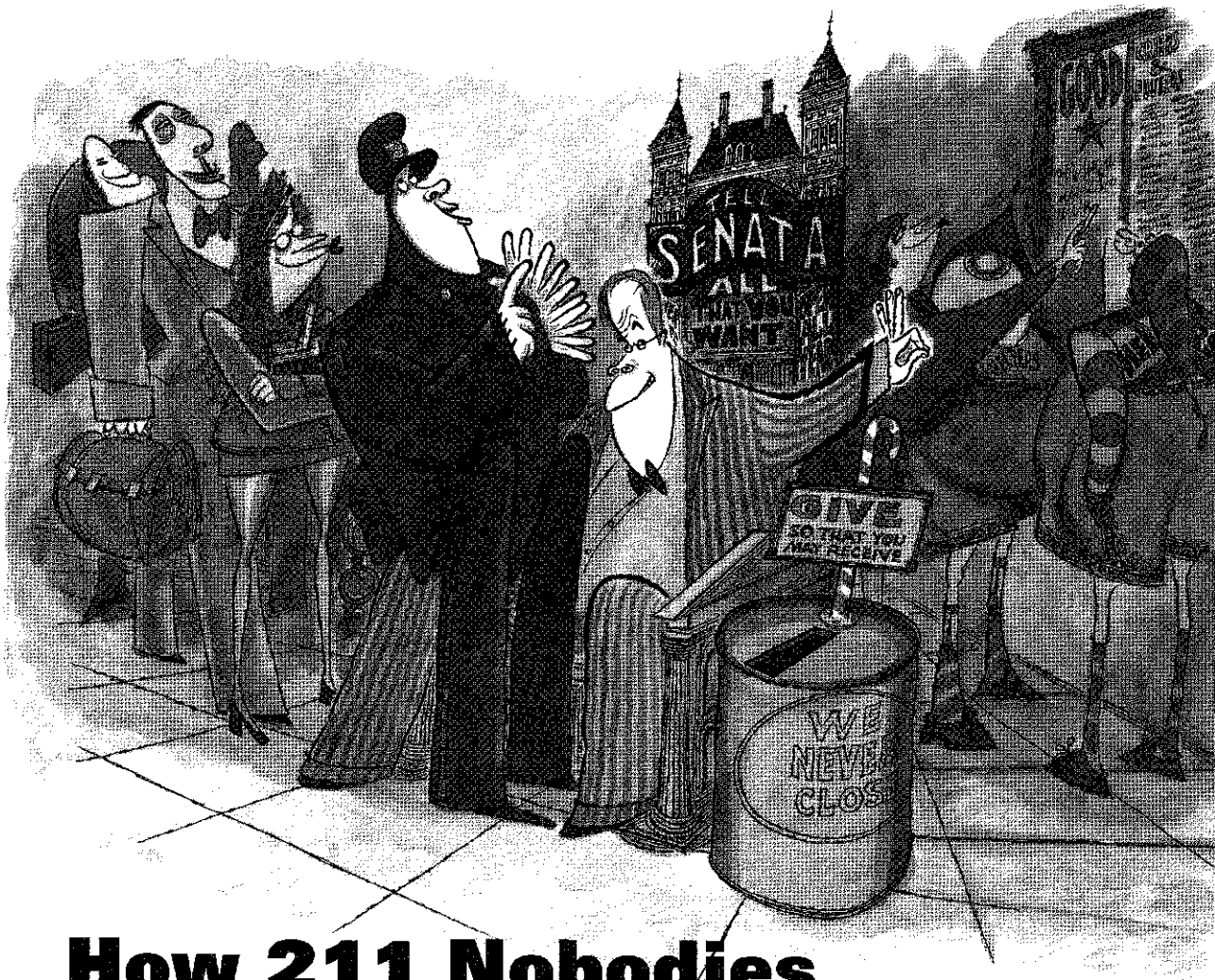

How 211 Nobodies Strangle New York

Brian C. Anderson

For 25 years, New York's antidemocratic Legislature has been hampering the city's prosperity and quality of life.

Up in Albany, the 211 mostly obscure individuals who make up the New York State Legislature shape the lives of New York City dwellers in ways Gothamites never imagine. "People see Albany as this faraway place, filled with not very impressive public officials, but they don't realize the power it has," says former city lobbyist Maggie Boepple. For instance, one recent legislative decision ordered the city to pay its disabled emergency medical workers a budget-busting three-quarters of their salary; another directs city school districts to offer pre-kindergarten classes to all four-year-olds by 2002—though the city lacks the teachers and classrooms to do it. As former MTA chairman Richard Ravitch puts it: "The city is a creation of the Legislature. The Legislature could pass a law tomorrow, a few minutes later

Illustrations by Arnold Roth

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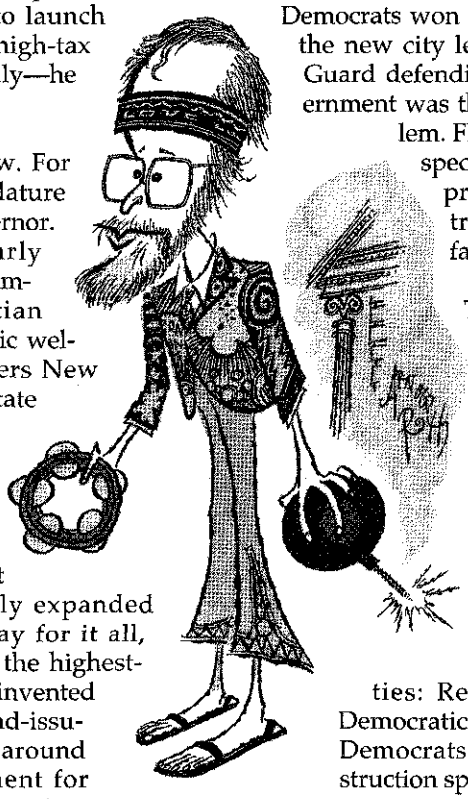
the governor could sign it, and New York City would be destroyed."

But instead of destroying the city in a single apocalyptic flash, the Legislature continually hobbles it by blocking needed reforms. Mayor Giuliani, after a successful first term, is now squarely up against the Legislature's power: to accomplish further major improvements—to launch school vouchers or to make high-tax Gotham more business-friendly—he will need Albany's say-so.



Richard Gottfried

This power is something new. For most of its history, the Legislature just took orders from the governor. As recently as the early Rockefeller years, legislators simply watched as the Faustian Rocky conjured up the gigantic welfare state that now encumbers New York. The campuses of the State University of New York expanded and multiplied; state office buildings, housing projects, hospitals, and nursing homes erupted; and scores of new government programs, including a vastly expanded Medicaid, blossomed. To pay for it all, Rockefeller made New York the highest-tax state in America, and he invented 40 largely unaccountable bond-issuing state "authorities" to get around the constitutional requirement for voter approval of state borrowing, burying future New Yorkers under a mountain of debt.

But as the sixties gave way to the seventies, the Legislature turned into a powerful machine for preserving, even extending, the Rockefeller-created welfare-state behemoth. It boosted its strength by adding staff and taking control of campaign financing from county political leaders. And it changed its personnel and its ideological bent sharply leftward in the wake of two cataclysmic reforms. The mid-sixties' "one man, one vote" standard for legislative districts shifted power from upstate, Republican-dominated rural counties to more populous and heavily Democratic New York City and its suburbs, while the 1974 Justice Department order, under the Voting Rights Act, to redraw Assembly and Senate districts in New York City wiped out most city Republican legislators and replaced them largely with hard-left black and Hispanic activists. When Democrats won the Assembly for good in 1974, the new city legislators became a Praetorian Guard defending Rockefeller's idea that government was the answer to every social problem. Flocking to their banner were the special interests—the social services providers, teachers' unions, and trial lawyers—that Rocky's welfare state had spawned.

Though the Senate stayed Republican in 1974, Senate Republicans and Assembly Democrats quickly reached an understanding to let each house protect its turf during future redistricting, assuring a permanent Democratic control of the Assembly and Republican control of the Senate. And they struck a tacit bargain not to interfere with each other's spending priorities: Republicans wouldn't balk at Democratic social services largesse, say, if Democrats let State University and construction spending soar.

The result: a rush to tax and spend that has drained vitality out of New York's private-sector economy. When the 1989–94 recession gripped New York, for example, the Legislature raised taxes $1 billion each year, using the money, explains historian Fred Siegel of the Democratic Progressive Policy Institute, to protect key interests from the downturn's harsh effects. "It didn't matter that the pie was shrinking, so long as the interest groups could grab a larger slice of what remained," Siegel notes. Debt ballooned, too, to $1,800 per capita today, three times the national average. And at today's $4,671 per capita, New

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York state and local taxes are a staggering 52 percent above the U.S. average. With private employers shunning such a high-tax state, New York's job growth has been among the nation's weakest for decades.

A quarter of a century after their takeover, Democrats remain in control of the Assembly, and New York City's Democratic Assemblymen, nearly two-thirds of the 98-member Democratic majority, dominate the party conference, holding the speakership and most committee chairs. They are an unprepossessing group, many of them locked into musty orthodoxies, fashionable when they first arrived in Albany back in the Age of Aquarius. Typical is Manhattan's Richard Gottfried, head of the city's legislative delegation and Health Committee chairman. As a bearded 23-year-old "in love" with the Kennedys, Gottfried joined the Assembly in 1970, while enrolled at Columbia Law School. Today he describes himself as "a committed progressive," upholding New York's business-throttling tangle of environmental and labor regulations and seeking to decriminalize pot. "If I weren't able to participate in the Legislature," he says, "I think I'd still be throwing bombs."

"If I weren't able to participate in the Legislature," Gottfried says, "I think I'd still be throwing bombs."

Or there's Edward Sullivan, the Upper West Side's 22-year Assembly veteran. As one legislator put it: "If you want to hear the party line without a deviating beat, Ed Sullivan's your guy." As chairman of the Higher Education Committee, he fights to preserve under-performing and costly SUNY and CUNY from the least reform. He plans to introduce a bill to stop the mayor from appointing members to CUNY's board of trustees—the main reason Mayor Giuliani could push firmed-up standards on the university.

In the sixties, Al Vann, an Assemblyman from Brooklyn's Bedford-Stuyvesant for 24 years, headed the virulently racist African-American Teachers Association, notorious for its battle against white teachers during the Ocean Hill–Brownsville school decentralization crisis. Today, though Vann's dashikis have given way to suits, his politics remain far left. "My philosophy," he boasts, "has not changed." Chairman of the Committee on Children and Families from 1981 to 1992 and of the powerful Committee on Corporations, Authorities, and Commissions since then, Vann has brought millions of taxpayer dollars to social services organizations in Bed-Stuy, many renting space from the lawmaker's eponymous creation, the Vannguard Urban Improvement Association—itself boasting a $1.5 million government-funded budget.

Alexander "Pete" Grannis, from Manhattan, elected in the *annus mirabilis* 1974, started in politics as "the organizer for New York's first Earth Day in 1970," he boasts, and he claims to be behind virtually every piece of environmental legislation in New York over the past two decades, including laws on acid rain, recycling, and toxic wastes—all of which have harmed the city's economy by raising costs and preventing building. Roger Green, a Brooklyn Assemblyman for 17 years, and chairman of the Committee on Children and Families, runs for office advocating a "Children First" theme, but he squelched legislation to prevent child-welfare authorities and Family Court judges from returning kids to dangerous families where a sibling has been murdered or abused. Even a newcomer like Manhattan's Deborah Glick, first elected in 1992, fits into the historic mold: the first openly lesbian member of the State Legislature, she considers herself a "grass-roots" activist. Indeed, of the 59 Assembly Democrats from the city, only some half-dozen aren't imprisoned in the old-paradigm thinking that distrusts markets, looks to government to answer problems, and views personal responsibility as an oppressive fiction.

The city's Senate delegation is cut from the same cloth, though no senator quite equals Queens's

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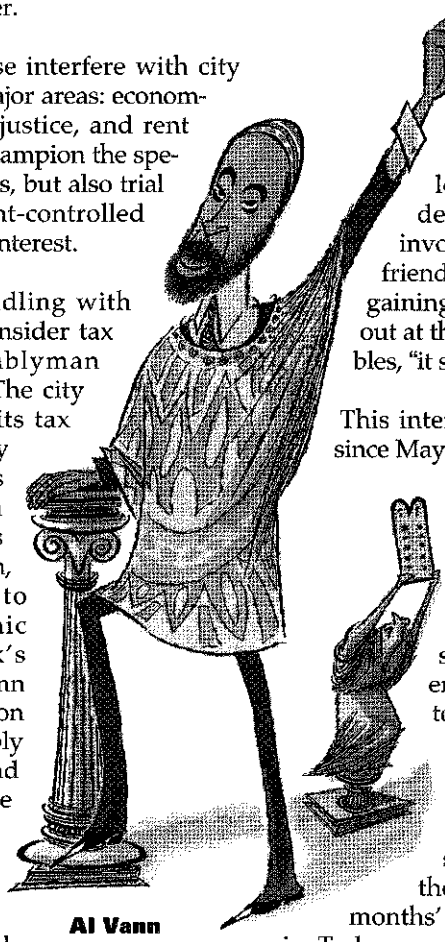
Ada Smith, Senate Minority Whip, whose history of aberrant behavior has earned her the sobriquet "the Wild Woman of Albany." Earlier this year, when Brooklyn police, writing a traffic ticket, momentarily blocked the path of Smith's car, the spitting-mad Solon allegedly bit one officer before he maced and handcuffed her.

When characters like these interfere with city affairs, they do so in four major areas: economic life, education, criminal justice, and rent control. In each case, they champion the special interests—usually unions, but also trial lawyers, criminals, and rent-controlled tenants—against the public interest.

With respect to their meddling with Gotham's economic life, consider tax policy first. As Assemblyman Gottfried bluntly puts it: "The city can't change a comma in its tax code without Albany approval." New York City's killer taxes have cost it an estimated 1 million jobs, as fed-up businesses fled town, while new ones flocked to more welcoming economic climes. (See "New York's Million Missing Jobs," Autumn 1997.) But Gottfried's position on taxes is typical of Assembly Democrats, who understand that first you must tax before you can spend. "I don't think cutting taxes improves the business climate," he argues, "since many things essential to making the city a good business environment—good schools, hospitals, public transportation—demand substantial public investment." Mayor Giuliani, though far from a tax-cutting firebrand himself, had to get State Legislature approval on each of the modest tax reductions he achieved, saving taxpayers more than half a billion dollars in 1998. "The Assembly fought us on many cuts," says one city lobbyist, "wondering why we were doing these things for businesses."



Al Vann

The Legislature gives away many of these tax dollars to special interests—above all, to unions, both those representing municipal employees and those representing private employees working on city contracts. Salaries and benefits to municipal workers make up half the city's $33 billion budget, and their runaway growth is a major reason that city taxes are so swollen. Yet the city doesn't fully control its payroll. According to city budget director (and until recently, chief lobbyist) Robert Harding, a maddening feature of the Legislature's involvement with the city is its union-friendly interference with collective bargaining. "Once a municipal union strikes out at the bargaining table," Harding grumbles, "it simply seeks relief in Albany."

This interference has been a problem ever since Mayor LaGuardia proudly helped make New York a "100 percent union town" six decades ago. Just ask former mayor Ed Koch. "The unions bargained with me back in 1988," Koch recalls, "but I said we couldn't afford to increase pensions—they were already more generous than the state's. So they went to Albany, and the Legislature said, '*We're* going to increase your pensions.'" Koch threatened to blame the inevitable layoffs on Albany. "So they were really pissed," he says, with a wan half-smile. Yet in the end, all he could get was a few months' delay before the increases kicked in. Today, pensions—more than double those that employees of the average Northern and Midwestern city receive—cost New York City $1.4 billion a year.

The Legislature's tactic in aiding city unions is to introduce a constant stream of bills, knowing that sooner or later one will pass. Though recent bills to let state and local employees retire with full benefits at age 55 and to give full city pensions to such non-teaching school personnel as school sec-

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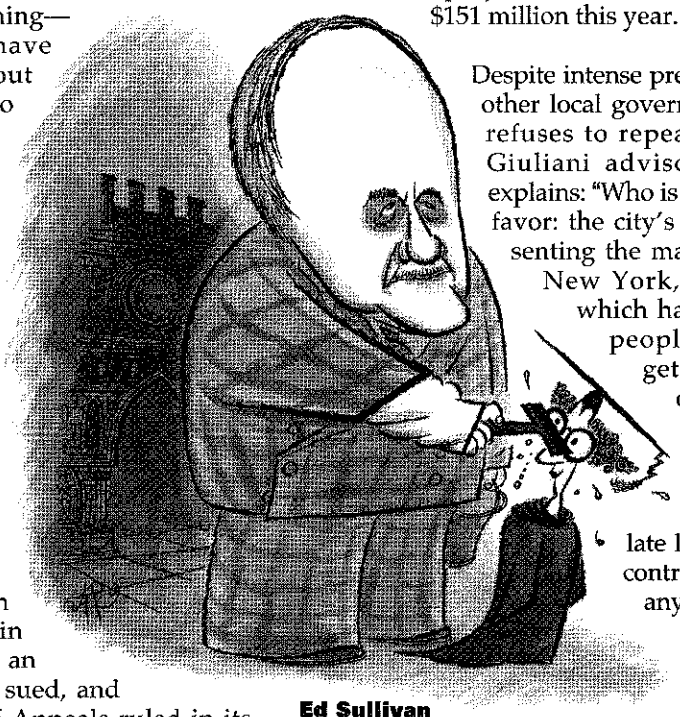
retary interns failed, those that do become law add up. For instance, two 1998 laws that boosted city pensions and protected Gotham's educational retirees from unilateral changes in health insurance premiums will cost city taxpayers millions.

A perfect case in point is the Senate's approval in December, without a single word of discussion, of a bill already passed by the Assembly to shift the site for arbitrating city labor disputes with cops from the city's Office of Collective Bargaining—where disputes have been hammered out for 25 years—to the state's union-friendly Public Employment Relations Board. As Harding warns, the move "would cost the city $200 million a year" through hiked salaries and benefits. Governor Pataki vetoed an earlier version of the bill in early 1996, but the 29,000-member police union had enough pull in both houses to get an override. The city sued, and the State Court of Appeals ruled in its favor on technical grounds. But the issue, like Dracula, came back from the grave. In late December, Governor Pataki signed the new bill, drafted to skirt court challenge.



Ed Sullivan

The Legislature's support for unions hurts the city's economy through inaction as well as action. The most striking example is Albany's failure to overturn the 77-year-old Wicks Law. Originally meant to stop corrupt government contracting, it requires city and state agencies to negotiate at least four separate contracts for electrical, plumbing, construction, and air conditioning, heating, and ventilating work on public building projects that cost more than $50,000. Separate contracts mean the city can't hire a general contractor who'll complete the whole job at a fixed price, do a lot of the work "in house" at a reasonable price, and coordinate the different parts of the job, avoiding costly delays while the air-conditioning workers, say, wait for the electricians to do the necessary wiring. The law adds as much as 27 percent to every public construction project; it will cost Gotham an estimated $151 million this year.

Despite intense pressure from the city and other local governments, the Legislature refuses to repeal the law. As former Giuliani advisor Richard Schwartz explains: "Who is the Legislature going to favor: the city's lobbying office, representing the mayor and the people of New York, or the labor unions, which have the money to elect people?" And things will get hundreds of millions of dollars worse if Governor Pataki doesn't veto a union-backed bill the Legislature passed late last year to allow public contractors to sue the city, or any public agency, for construction delays—delays the Wicks Law guarantees.

Beholden to yet another special interest, the Legislature also blocks tort reform, a change the city urgently needs to unfetter its economy. As Steve Malanga of *Crain's* points out, "New York has more laws making it easier to sue than virtually any other state," a legacy of the anti-business consumer-protection ideology that took root in New York in the sixties and seventies. Thanks to the Legislature, New York businesses face tort risks that exist in no other state, from third-party lawsuits (if injured on the job, I can sue my employer *or* the company that made the equipment I hurt myself using—which

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can turn around and sue my employer, too) to "safe place to work" laws (holding construction companies responsible for workplace mishaps, even when the injured worker has behaved with flamboyant foolishness).

The proliferation of lawsuits affects businesses from auto-rental companies—where a doubling of motor-vehicle torts over the last decade has pushed auto-insurance costs 30 percent higher in New York than anywhere in America and driven dozens of car-rental agencies out of New York or out of business since 1995—to obstetricians, who pay $115,000 a year for the same malpractice insurance that, thanks to financial caps on malpractice awards, costs only $40,000 in California. An estimated one out of six New York obstetricians has given up delivering babies since the mid-eighties because of tort risks. A recent National Bureau of Economic Research study confirms what these examples imply: states that limit civil lawsuits generate more economic activity—and jobs—than those that don't, and they also enjoy higher business productivity.

New Yorkers pay for the rise in liability lawsuits in their taxes, too. Tort cases against the city itself have jumped 60 percent over the past decade, with big settlements routine. Tort settlements will cost the city an estimated $383 million this year. In 1997, trial lawyers made an astonishing $100 million milking the city. Former city lobbyist Maggie Boepple, now a lobbyist for Nixon, Hargrave, Devans, and Doyle in Albany, remembers a settlement from the seventies that, in retrospect, looks like the handwriting on the wall. "Somebody tried to kill himself by jumping in front of a train," Boepple recounts. "He wasn't successful, but he lost both legs when the train ran him over. So he sues the Transit Authority for millions of dollars, and he wins a huge settlement"—which a cap on personal injury awards, like those 30 other states have passed, would have limited.

Legislators are vassals of the trial lawyers, who vigorously lobby against such reforms as caps on awards or limits to class action suits. In 1997, the trial lawyers spent close to half a million dollars in lobbying to stave-off changes in tort law. That doesn't sound like a lot of money, but in New York's Legislature, where a few thousand dollars goes far in unpublicized elections, it's more than enough to get lawmakers to pay attention to the trial lawyer's wishes. Some prominent legislators are trial lawyers themselves: Assembly Speaker Sheldon Silver runs his private practice out of the offices of the former head of the Trial Lawyer's Association; the chair of the Assembly's Judiciary Committee—which handles tort legislation—is Helene Weinstein, counsel to a firm specializing in medical malpractice. In the Senate, the Insurance Committee chair is Guy Velella, whose firm handles personal injury cases. When I asked Assembly Insurance Committee chair Pete Grannis what the prospects were for tort reform, he dryly replied, "You can't put a cap on pain and suffering."

Beholden to yet another special interest, the Legislature also blocks tort reform, a change the city urgently needs to unfetter its economy.

A huge millstone weighing down the city's budget is the more than $3 billion yearly it must pay for its share of Medicaid—roughly equal to the city's structural debt. Unlike most states, which pay the entire 50 percent of the Medicaid cost that the federal government doesn't pay, only New York and Arizona require localities to split the non-federal share. True, Gotham gladly shouldered this burden in the Rocky era, when, feeling flush and generous, it conspired with Albany to offer recipients every imaginable benefit, from chiropractic services to artificial insemination. But now the cost has become a burden, and the Legislature's spendthrift ways keep increasing it: New Yorkers pay close to $7,000 a year per Medicaid recipient, *more than twice* the national average. City officials have repeatedly begged the Legislature to cut back Medicaid spending and to require the state gradually to assume the entire non-federal share of the cost—to no avail. (See "Medicaid's Fatal Attraction," Winter 1996.)

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Each legislative majority has its cherished Medicaid special interests that provide healthy campaign contributions: Assembly Democrats favor health worker unions; Senate Republicans, hospitals and nursing homes. Part of what is wrong with the Legislature is that lawmakers can hold outside jobs, and the entwinement of politics and Medicaid has allowed some legislators to profit handsomely. Former Democratic State Senator Pedro Espada Jr.—sycophants still call him "Senator"—has for years run a giant South Bronx clinic that employs hundreds of people and brings in millions in Medicaid dollars. Earlier this year, he and two employees were arraigned for allegedly diverting $221,000 in Medicaid money to his unsuccessful 1996 reelection campaign.

"The Assembly," says one juvenile-justice official, "has been the Berlin wall when it comes to stopping sensible juvenile-justice legislation."

Pedro's brother, Jose, who also has political aspirations, runs a Bronx ambulette company. Over in the Assembly, Bed-Stuy's Al Vann formed, a few years back, a for-profit company that trolled for Medicaid patients on behalf of a health maintenance organization, until both federal and state law banned such blatant solicitations. What incentive would such politicians have to control Medicaid costs?

The second major area in which the Legislature shapes New York City's fate is education: school governance and a sizable chunk of education funding are state matters. The city enrolls 38 percent of the state's students, including 70 percent of those living in poverty and 80 percent of students with limited English-language proficiency. Yet it receives only 34.7 percent of state education aid, amounting to a $340 million loss to the city in the 1996–97 school year alone.

But the biggest complaint the city has with Albany concerns the lawmakers' stubborn opposition to education reform. Gotham's underachieving public schools are ultimately Albany's responsibility: the Legislature determines such basic matters as teacher tenure and how much power local school districts will wield, and, through appointments to the Board of Regents, it sets the qualifications for teachers. It is the Legislature that decided whether the public clamor for charter schools succeeded, and it will decide the fate of school vouchers, too. Given that the Legislature behaves like a wholly-owned subsidiary of the teachers' union, which opposes such reforms, getting real improvement is like pulling teeth.

Influential Manhattan Assemblyman Steven Sanders, the Education Committee chairman, rejects vouchers, as does every Democratic Assemblyman I interviewed. "It's not an appropriate use of public dollars," Sanders tersely says. He's not much more enthusiastic about charter schools: "The devil is in the details," he opines—correctly, since such details as whether charter schools must abide by the same union-negotiated work rules that created much of today's school failure are key. Commenting on Governor Pataki's effective charter bill, which the Legislature watered down before passing it in December, Sanders warns: "The difficulty is that it takes the chartering authority out of the public school milieu and gives it to other entities." Of course, charter schools will improve student performance only if they *do* break with the "public school milieu," with its focus on the interests of teachers rather than students, but never mind. "How do you determine what kind of certification or experience teachers in charters would have?" Sanders continues; "Not everybody can teach." His implication is that charter schools should have the same restrictive certification requirements that make public schools off limits to the gifted teachers without ed-school degrees who fill the teaching ranks of the best private schools.

When I pressed Sanders on how to improve city schools, he noted that the Regents had set more rigorous professional development programs for teachers and had standardized the practices of ed schools. But these are meaningless reforms, tight-

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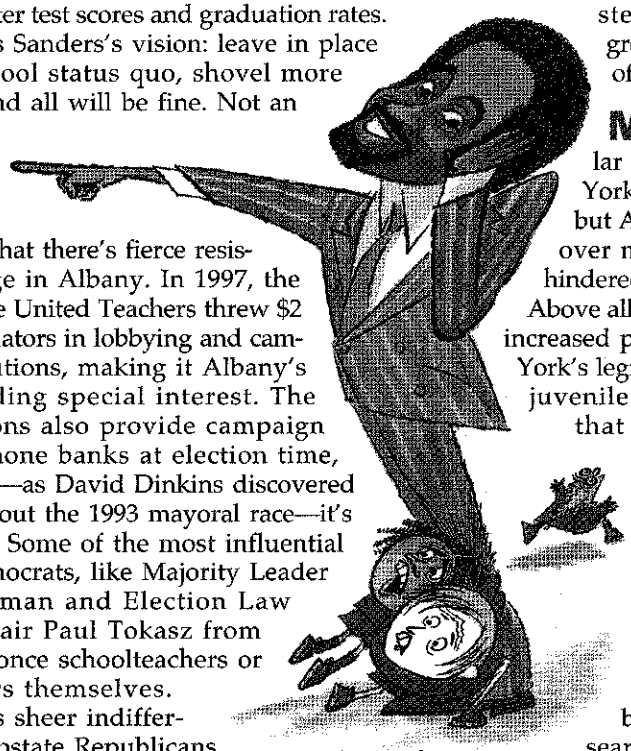
ening the control of the same education bureaucrats who helped make the mess in the first place. What other reforms *does* Sanders support? Building and repairing school buildings: "We don't have the housing to have quality education," he says. "Classrooms are overcrowded, the schools are old, some still use nineteenth-century coal to heat their buildings"—disregarding the fact that impoverished Catholic schools, with classrooms as ramshackle as the most decrepit public school, have vastly better test scores and graduation rates. In short, here's Sanders's vision: leave in place the public school status quo, shovel more money at it, and all will be fine. Not an inspiring message for frustrated parents.



Roger Green

Little wonder that there's fierce resistance to change in Albany. In 1997, the New York State United Teachers threw $2 million at legislators in lobbying and campaign contributions, making it Albany's biggest-spending special interest. The teachers' unions also provide campaign troops and phone banks at election time, without which—as David Dinkins discovered when they sat out the 1993 mayoral race—it's harder to win. Some of the most influential Assembly Democrats, like Majority Leader Michael Bragman and Election Law Committee chair Paul Tokasz from Buffalo, were once schoolteachers or administrators themselves. Finally, there's sheer indifference among upstate Republicans, who view education reform as a city issue. Why should they risk incurring the teachers' unions' wrath over it? As Senate Education Committee chair Charles Cook puts it: "To issue vouchers to send kids to private school isn't going to happen; after all, we've got a public school system to maintain."

Waive enough money at New York's venal legislators, though, and anything might happen. When the Legislature passed, despite fierce teachers' union opposition, a watered-down, but still promising, version of Pataki's charter bill, it took a huge 38 percent pay hike and other lousy legislation, including the Patrolmen's Benevolent Association bill, to get lawmakers to do it. Though the law is hardly everything education reformers would like, it permits charter schools to have some uncertified teachers, allows some non-union charters, and ensures that funding follows students to good schools, forcing the underperforming ones to get their act together or lose revenue. It's not an educational revolution, but it's a first step, and in New York's retrogressive Legislature, nothing short of amazing.

Mayor Giuliani's most spectacular success has been slashing New York City's crime rate by 44 percent, but Albany, which has vast authority over matters of criminal justice, has hindered rather than helped his efforts. Above all, while most states have sharply increased penalties for young thugs, New York's legislature has reformed the state's juvenile justice system so minimally that juvenile crime has dropped infinitesimally in the last five years compared with other categories of crime. The Assembly's refusal to make convicted violent young felons ineligible for youthful-offender treatment, or to permit consecutive sentencing to keep young thugs behind bars, or to let Family Court issue search warrants—all of which the more law-and-order-minded State Senate approved—means that young felons remain correct in thinking that the punishment they face for crime is minimal or nil. "The Assembly," says one New York juvenile-justice official, "has been the Berlin wall when it comes to stopping sensible juvenile-justice legislation."

Moreover, though the mayor has reduced crime principally by directing the police to enforce laws against quality-of-life offenses, the Assembly (unlike the Senate) has refused to make that task easier by increasing the penalties for such quality-

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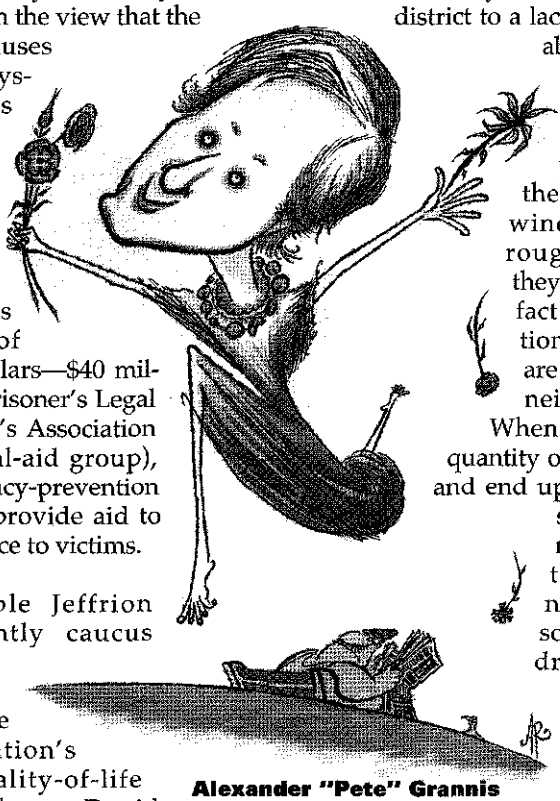
of-life offenses as aggressive panhandling or using the streets as a toilet. As Citizens Crime Commission head Thomas Reppetto puts it, the Assembly Democratic majority has been "pro-defendant" in the extreme.

The members of the Black, Puerto Rican, and Hispanic Caucus are the most energetic obstructionists in the Assembly, and they base their opposition to reform on the view that the injustice of society causes crime and that the "system" unfairly singles out poor minorities for punishment. While the influential, 34-member, mostly New York City–based caucus opposes reforms, it regularly spearheads the appropriation of tens of millions of dollars—$40 million in 1996–97—for Prisoner's Legal Services, the Defender's Association (a Harlem-based legal-aid group), and various delinquency-prevention programs that often provide aid to criminals but little solace to victims.



Alexander "Pete" Grannis

Queens's personable Jeffrion Aubry, until recently caucus chair, attributes New York City's drop in crime not to the Giuliani administration's new-paradigm quality-of-life enforcement but rather to David Dinkins's community policing—and to the economy. "I always draw a correlation between economic times and crime," Aubry explains. "In a capitalistic society, money is primary, right or wrong, so when people don't have it, drugs go up, crime goes up." Aubry's belief that crime springs from envy and resentment rings a sophisticated, and particularly distasteful, change on the "society-is-to-blame" argument that made New York an anxious and unsafe place as recently as five years ago, especially in the inner-city communities for which the caucus claims to speak.

In the same vein, caucus member Arthur Eve of Buffalo, a 32-year Assembly veteran and now Deputy Speaker, recently told a reporter that prison must be made "a very productive experience" for inmates. "The attitude of just punish, punish, punish doesn't make sense," he opined. Similarly, caucus-member Gloria Davis, the grandmotherly chief of the Majority Conference in the Assembly, attributes crime in her south Bronx district to a lack of jobs—"and I'm not talking about a fast-food type of thing," she says. She admits that crime has lessened in recent years but complains that "the police department polices like the Gestapo. I look outside my window and see police officers roughing up people just 'cause they're in blue." Davis ignores the fact that the Giuliani administration's aggressive policing tactics are what made crime drop in her neighborhood more than most. When Davis complained about the quantity of drugs that come into the U.S. and end up in her district, I asked her if she thought there was government complicity. "What do you think?" she shot back. "You never thought about it?" Her solution, based on her visits to drug-free—and totalitarian—China in 1982 and Cuba in 1991, is to put "all the docks, all the airplanes—everybody—under suspicion."

True to its "pro-defendant" stance, the Legislature, because of Assembly opposition, adjourned in June without passing "Jenna's Law" abolishing early parole for violent felons and mandating longer sentences for violent crimes. Perhaps signaling a change in voter sentiment, the public outcry that followed forced Speaker Silver to call an emergency session of the Legislature at the end of July to pass the law.

The Legislature, which reimposed rent control on New York City when federal rent curbs expired in

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1950, now stands in the way of abolishing rent regulation, which worsens the housing shortage that it was designed to address, most notably by causing landlords to abandon thousands of buildings whose regulated rents became too low to afford them a profit. Rent regulation also discourages new housing construction by making developers fear that, if they build rental housing, the Legislature will someday place it under rent regulation, as happened in 1974. Moreover, because rent regulation makes prosperous tenants unwilling to leave their bargain apartments, it dampens demand for the shiny new housing they might otherwise want.

Nary an Assembly majority voice favors ending or modifying rent control. Manhattan's Richard Gottfried expresses the consensus: "Strong rent-protection laws are as essential to the character and functioning of New York City as rapid transit." When Senate Republicans joined forces with Governor Pataki in 1997 to end rent control in New York, Assembly Democrats rallied scared tenants. Pataki chickened out, reaching a compromise with Speaker Silver that left most rent protections still in place. Assemblyman Edward Sullivan sees staving off the end of rent control as one of the Assembly's greatest victories. "Rent control," he says, "gives stability to city neighborhoods that otherwise wouldn't have it, if the landlords—not all of them are bad, though I haven't run into any who aren't—had their way."

Walking through Albany, one can't escape the shadow of the dehumanizing architecture of Nelson Rockefeller's Empire State Plaza, whose Orwellian government buildings span an area equivalent to 15 football fields. The art critic Robert Hughes has it exactly right: "It is designed for one purpose and achieves it perfectly: it expresses the centralization of power, and one may doubt if a single citizen has ever wandered on its bleak plaza . . . and felt the slightest connection with the bureaucratic and governmental processes going on in the towers above him." The Mall's "architecture of coercion," as Hughes calls it, is a perfect emblem of New York's hypertrophied welfare state.

In fact, the emblems of it are everywhere: if not for the capitol, for Rockefeller's Mall, and for the lobbying groups and associations that the welfare state sponsors, Albany would be a ghost town. Here's the Association of Social Workers on Washington Avenue; now we see the New York Public Welfare Association on the same street; there's the Health Care Association of New York on Pear Street. From Amber's and the dozen or so other escort services and strip clubs to Bleeker's, Jack's, and the more than 200 restaurants, to the countless secretarial agencies, Albany's business is government, and as government grew, so did the numbers of Albany dwellers who make their living from the state.

Nothing changes in this seat of corroded idealism. Because of computer-gerrymandered redistricting and the huge financial and staffing advantages incumbents enjoy, many legislative races are almost comically non-competitive. There's often no primary challenger, and, in the main race, winners usually garner huge majorities or run unopposed. The Legislature has the highest incumbency return rate of any state legislature in the nation, at over 95 percent; in 1998, no incumbent lost a seat. Lawmakers grow comfortable in office, and make more money—after the new 38 percent pay raise, a salary of $79,500, swelled by extra fees generally ranging from $2,500 to $41,500—than most other state legislators. What has emerged is a single party of power—a *nomenklatura*, as *City Journal* contributing editor and former Urban Development Corporation head William J. Stern calls it—dedicated to self-preservation and to profiting by the many ways big government has of providing financial opportunities to generous political contributors.

As Citizens Crime Commission head Thomas Reppetto puts it, the Assembly Democratic majority has been "pro-defendant" in the extreme.

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The Legislature is still a top-down political body, though some, like Westchester Assemblyman Richard Brodsky, delicately describe it as a parliamentary-style institution, with strong executive authority and little opposition input. Assembly Speaker Silver and Senate Majority Leader Joseph Bruno decide what bills will pass, control the funds each member gets to hire staff, divvy up perquisites, make lucrative committee appointments, and hand out the treasured "members' items"—bills that give individual legislators who fall into line over $300 million yearly to spend as they like on such questionable projects as the Caribbean Research Center at Brooklyn's Medgar Evers College or the Museum of Cheese in Rome, New York. Albany's Potemkin democracy shrouds itself in secrecy, with many important decisions made behind closed doors. Party caucuses, where the real deal often comes down, aren't open to public scrutiny. (See "New York's Nightmare Legislature," Spring 1995.)

Albany's Potemkin democracy shrouds itself in secrecy, with many important decisions made behind closed doors.

The secrecy extends to the behavior of legislators, who often spend long stretches of time away from their families. Throughout Albany's political history, legislative aide Peter Slocum points out, "nighttime activities between consenting adults were not considered news." Before *Village Voice* reporter Wayne Barrett made his first trip to Albany, Manhattan Assemblyman Denny Farrell warned him about the Bear Mountain Compact: "Once you cross the exit for Bear Mountain," Barrett explains, "nobody is to bring back tales of what they've seen." As Slocum reports, there was, and still is, a lot to see. Albany went on "full red alert," as some legislators called it, when lawmakers' wives flocked to the capitol for the fancy, now defunct, governor's dinner and ball. All the mistresses moved out for the weekend, according to Slocum. Booze still flows abundantly; high-stakes poker games, where lobbyists chronically lose, still flourish. Slocum adds, "It's a bit like the Mets at spring training from time to time."

The Bear Mountain Compact finds reinforcement from the New York City-based press's lack of interest in Albany. As Robert Ward of the Public Policy Institute observes, "None of the city newspapers tells anything about what their elected representatives are doing." The *New York Times*, which ignored state legislative races in this year's election, didn't publish their results until three days after polling booths closed. Small wonder, then, that Gothamites—40 percent of the state's population—pay no attention to Albany. Assemblyman Gottfried, puzzling over it, notes that, "People know councilmen, yet they're barely aware of the State Legislature—it's quite astonishing." He candidly admits that the indifference gives him cover: "My upstate colleagues often say they admire the anonymity we city legislators work in, and in some ways there is a lot to be said for not having it reported every time you sneeze. But it's not good for democracy."

In the money-drenched culture of mutual backscratching that Albany's Potemkin democracy breeds, fund-raisers and lavish meals take up more time than legislating. Queens Assemblywoman Catherine Nolan, the Labor Committee chair, complains: "I'm one of the last legislators here who doesn't hold fund-raisers in Albany, and I'm going to have to start—there's too much pressure to bring in money." During this year's legislative session, lawmakers held 201 fund-raisers, more than one per legislative day, according to the left-wing public interest group NYPIRG.

In 1997, spending in Albany by special-interest lobbyists rose 31 percent to a record $51.4 million—an 800 percent inflation since 1978. The state leaves lobbyist gift-giving essentially unregulated. An honor system, with no further enforcement, requires legislators to disclose only gifts valued over $1,000. Lobbyists and their clients

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must report their efforts to influence legislation, but they can keep mum on their attempts to get state agencies to change policies or hand out government contracts. True, lobbyists are supposed to declare any gift over $75, but they don't have to say whom they've given them to. Legislators get showered with fancy dinners and tickets to concerts, playoff hockey games, and Broadway shows, among other perks.

Strikingly, eight of the top ten biggest-spending lobbying groups receive, directly or indirectly, taxpayer dollars, according to a 1998 state government report. Whether it's the United Federation of Teachers (Albany lobbying expenditures in 1997: $672,000) demanding money for school construction or the Health Care Association ($523,504) driving up Medicaid costs or the Civil Service Employees and the Public Employees Federation ($903,650 combined) inflating pensions, taxpayers pay millions of dollars to groups that go to Albany and spend money to tax them more. As a former aide to Mayor Giuliani put it, "Something has broken down"—and it's the nanny state, parasitical rather than nurturing. In this way do public servants become the masters of the polity.

Gloria Davis

Does lobbying work? Maggie Boepple says yes: "I now advise any client that they have got to be willing to contribute politically." And as former Assembly Speaker Perry Duryea (the last Republican speaker, from 1969 to 1974) curtly admitted to Peter Slocum, "Of course they're effective." The immediate political effect of it all? It's what public-choice theory calls a breakdown in the political market, as special interests protect hard-gained terrain at the expense of the common good.

Not surprisingly, given the Legislature's power over Gotham, City Hall has a lobbying operation in Albany, too, though its currency isn't money but the threat of political embarrassment. Much of what the city's lobbyists do is preventive medicine. In the words of former city lobbyist Boepple: "The amount of crazy bills affecting the city that float around in Albany is just horrifying—you pick up any legislative calendar on any day, and there will be bills that would utterly devastate the city." Another former city lobbyist, Pete Piscatelli, concurs: "As much as 80 percent of what we did was trying to kill bills." If several unsuccessful bills had become laws over the past few years, New York City would be decidedly worse off. Thieves could lift the latest Backstreet Boys CD with impunity, thanks to an Assembly bill that decriminalized petty theft. Five additional industrial-development agencies—one for each borough—would now join New York City's own costly and inefficient IDA in offering deals to well-connected firms. And a 1996 bill, passing both houses before the governor vetoed it, set promotion quotas for New York City detectives, overriding the Police Commissioner's ability "to assign members of the force as he sees fit," as ex-chief city lobbyist Robert Harding complained.

What is to be done? Without doubt, New York City would benefit from a more open process in Albany, perhaps through Assembly Minority Leader John Faso's pet idea, an Albany C-Span. City concerns could get the public hearing they deserve. The major media might pay more attention. Federal legislation ending the deductability of state and local taxes from federal income taxes

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might impel wealthy New Yorkers to get serious about pushing reform in Albany once they stop being able to pass on half their state and local tax burden to the feds—though the danger is that such tax reform would drive them to lower-tax states before Albany got the message.

It's past time to end politically gerrymandered districts. As the thoughtful and principled Faso argues, "the biggest institutional change that could affect this place would be, once every ten years, to have a fair reapportionment that respected jurisdictional lines and that did not cut up communities of interest into five or six districts." When I asked Faso how likely it was that redistricting might be turned over to an independent commission, he tersely replied: "Slim or none at present."

Two major reforms would surely put an end to Albany's irresponsibility: initiative and referendum, which allow citizens to put large policy questions to the electorate; and term limits. California is an exemplary case of how initiative and referendum works. Citizen initiatives there have led to upper limits on property taxes, the end to admissions and hiring quotas in state institutions, and the abolition of forced bilingual education. Elsewhere, voters have given thumbs down to homosexual marriage (Hawaii) and assisted suicide (Michigan) in initiatives this past November. New Yorkers like the idea: polls show support at over 70 percent.

Initiative and referendum, which has been around in the U.S. since 1898, is not an instrument for everyday use. As Teddy Roosevelt put it in 1912: "Initiative and Referendum . . . should be used not to destroy representative government, but to correct it whenever it becomes unrepresentative." The road to I & R in New York would be crater-filled. To get the constitutional amendment authorizing it, two consecutive legislatures have to say yes. Then voters would have to agree in a referendum. Given the lack of enthusiasm legislators have shown for the idea—Republican State Senator Frank Padovan from New York City has introduced legislation for years to see it go nowhere—we could be waiting quite a while.

Though term limits, a likely outcome of initiative and referendum, will cost New Yorkers an effective mayor, they guarantee that politicians can't build vast self-serving empires. Almost everywhere that they've been put on ballots, voters support them, and nationwide polls consistently show 80 percent

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support for the idea. According to Conservative Party chief Michael Long, "Term limits would break Albany open: instead of career politicians, you'd have legislators coming to Albany with a clear vision of what they wanted to do." They're worth considering. Because everything that Gotham needs to ready itself for the twenty-first century—good schools, thriving businesses, safe streets, bountiful housing—requires Albany's acquiescence, the Legislature must free itself from the tight grip of special interests and obsolete ideas and become once again a democratic institution. •

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New York's Protect-a-Thug Decree

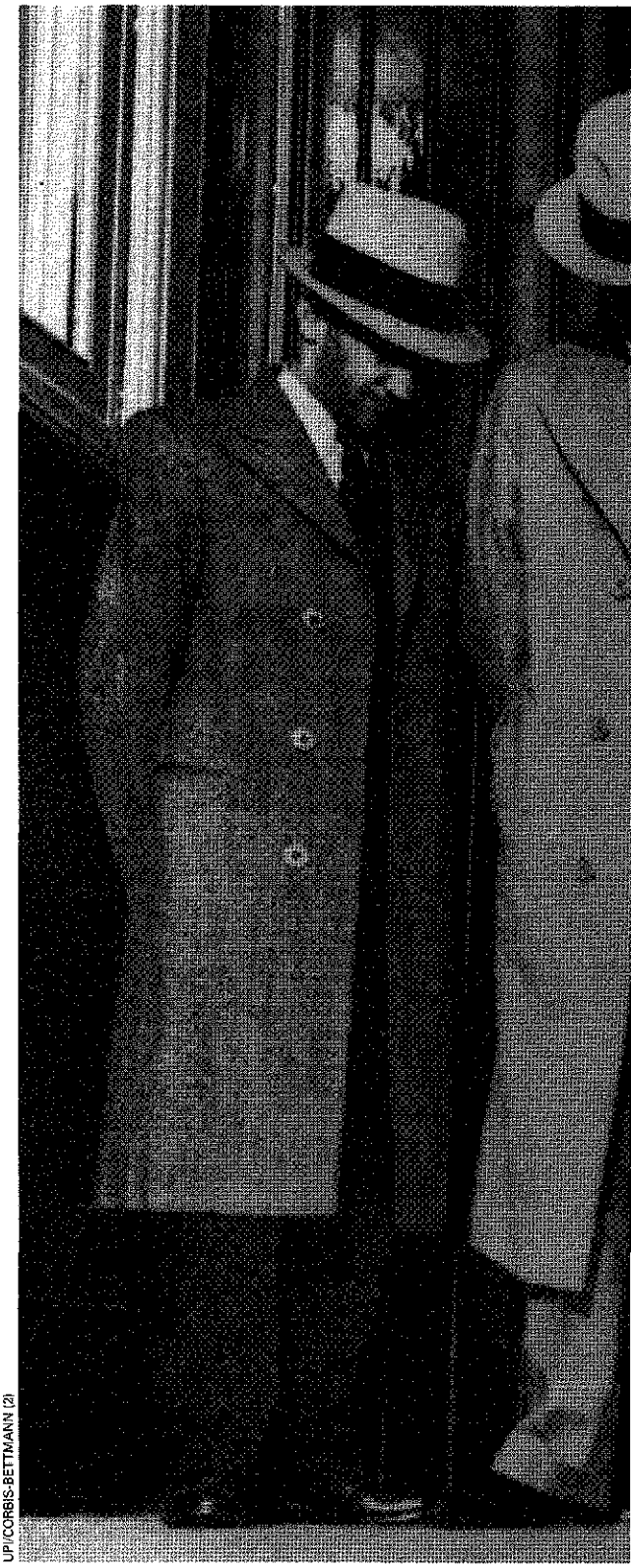
Peter Reinharz

Everyone grumbles about criminal-friendly decrees like the U.S. Supreme Court's 1966 *Miranda* decision, but New York State's highest court has taken the legal protection of reprobates and thugs to new and breathtaking heights. Thanks to a 1997 decision of the New York State Court of Appeals, *People* v. *Burdo*, repeat felony offenders get special legal rights that first-time offenders don't get. The result: career thugs are often harder for police to convict than first offenders.

The events that set *Burdo* into motion took place in 1994, two weeks before Christmas, when Francis J. Burdo sat arraigned on rape charges in Clinton County Jail in upstate New York. Two cops, working to solve another crime—the brutal beating death of Leo Gebo 18 months earlier—wanted to question Burdo about it. Burdo's uncle had just confessed to the murder and had implicated him. The detectives had Burdo brought down to the jail's library, read him his *Miranda* warnings, and told him he could stop the interrogation whenever he wanted. No one was trying to coerce anyone here, the detectives soothingly reassured him. The cops knew Burdo faced rape charges, and they warned him not to talk about them. If he did, federal and state law demanded that his rape-case lawyer be there, too, no doubt keeping his client's mouth tightly shut. Burdo said, sure, he knew all about his rights—but he was willing to talk about the Gebo killing.

Only New York's highest court could come up with a ruling that makes career criminals harder to convict than first-time malefactors.

In fact, he confessed. Yes, he beat Gebo to death, he admitted—



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but his uncle had tried to break up the fight; his uncle was innocent. The detectives didn't believe that part of his story, and said so. Irritated, Burdo got up and stalked to his jail cell. Fifteen minutes later, though, he voluntarily returned, and the detectives recorded his oral and written confession to the murder of Leo Gebo. Neither they nor Burdo said a word about the rape case.

No one doubted that Burdo's confession was voluntary. But New York's trial courts, intermediate appellate courts, and, finally, its Court of Appeals all ruled it inadmissible evidence. In the courts' view, the cops had run roughshod over Burdo's right to counsel. A confessed murderer avoided conviction; Burdo's uncle alone went to prison for the murder. The detectives were incredulous. After all, hadn't they followed every procedural safeguard in the book? How *could* they have violated Burdo's right to counsel?

The right to counsel rests on the Fifth and Sixth Amendments to the federal Constitution (along with similar state constitutional provisions), which protect you from self-incrimination in court or during a police interrogation and which guarantee you a lawyer if you've been charged in court with a crime. Since the sixties, the two amendments have blended together, so to speak, so that courts have increasingly viewed as self-incrimination almost any statement a suspect makes without his lawyer present. As a result, police have found it ever harder to get confessions they can use in court.

Relentless in pursuit of civil liberties, New York's Court of Appeals—usually the final adjudicator of the state's criminal trials—has over the same period broadened the right to counsel even beyond federal protections. The 1968 *Arthur* rule is a prime case in point. Before *Arthur*, a suspect with a lawyer for a particular crime could waive his rights and speak to investigators about it without his attorney peering over his shoulder. After *Arthur*, though, once a suspect has a lawyer for a case—even if the attorney is court-appointed—cops can't ask him about that case without getting a waiver in the attorney's presence. (Under federal law, only an attorney the suspect has asked for himself or who advises police that he represents the suspect must be present to give such a waiver.) But though *Arthur* is a step on the way to *Burdo*, it is still very different. After all, Burdo had no lawyer for the murder charges, he explicitly waived his constitutional protections, and he confessed without coercion.

It was with its 1979 decision, *People* v. *Rogers*, that the Court of Appeals extended the right to counsel to *unrelated* cases—an innovation key to understanding *Burdo*. The specifics of the case make it easy to follow the court's decision and perhaps even easy to sympathize with it. On December 16, 1975, as Nassau County police grilled Herbert Rogers about a liquor store holdup, his attorney called and told them to break off the questioning. The cops, following the letter of the law, did stop asking Rogers about the holdup but slyly continued to ask him about an unrelated burglary. Rogers incriminated himself, and a court later convicted him, using his statements against him.

Not so fast, said the Court of Appeals. How likely was it that a lawyer who represented a client for one crime would desert him if police, shifting gears, tried to pin some other misdeed on him? Not likely at all, the court concluded. Thus *Rogers*'s new rule: if, during an interrogation, a defendant asks for a lawyer, or his lawyer calls and tells police to stop, the cops can't shift from one crime to another without the right to counsel covering it, too. The officers had discovered a loophole that let them continue to question their suspect; the court simply closed it. The court recognized that the new rule made it harder to get confessions—putting a kink into police work, which relies heavily on members of the criminal class incriminating themselves during interrogation—but the blow to law enforcement was "immaterial to our sense of justice," the court declared. The Court of Appeals overturned Rogers's burglary conviction.

Not everyone on the *Rogers* court agreed. In a dissent, two judges argued that the court had elevated the right to counsel "above the compelling interest of the State to investigate and prosecute criminal conduct." There must be justice for the prosecution, too, the dissenters noted. Yet *Rogers*,

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though it further constrained officers from interrogating known criminals, still let them question a willing suspect about unrelated crimes—provided his attorney didn't call or show up. Police could live with it. But the Court of Appeals had set in motion an idea—that the right to counsel covered unrelated crimes—that soon grew out of control.

It did so in the 1981 Court of Appeals decision in *People* v. *Bartolomeo*, the real law-enforcement killer. The facts of the case appear unremarkable. In May 1978, Suffolk County police arrested Peter Bartolomeo for arson. A lawyer represented him during arraignment, and he was released on bail. Just a few days later, Suffolk County police—though not the same officers—picked up Bartolomeo again, this time to question him about the murder of John McLaughlin, shot to death in April. These detectives knew Bartolomeo was up on arson charges, but they had no specific knowledge about who had represented him for his arraignment. Bartolomeo waived his right to a lawyer: he wanted to talk. Following *Rogers* scrupulously, the cops felt free to question away. During the interrogation, Bartolomeo admitted that he killed McLaughlin. Police arrested him for murder, and a jury convicted him.

An open-and-shut case, right? Wrong: the Court of Appeals, in a 4-to-3 decision, threw out Bartolomeo's confession and, with it, his murder conviction, pushing the right to counsel into uncharted constitutional waters. According to *Bartolomeo*, it is up to the investigating detectives to know if a suspect has a lawyer, even if the suspect hasn't asked for his lawyer and even if his counsel hasn't contacted the police on his behalf. It is the responsibility of the police to know if a suspect is charged with another crime, to know if he has a lawyer representing him for that crime, and not to question him about *any other* criminal case unless that lawyer is present. As a practical matter, the court's new rule perversely benefited only serial offenders, since it dealt with the confessions—the admissions of guilt—of suspects charged with more than one crime. If a recidivist fessed up to a crime without his lawyer present, his confession was excluded, and the case against him—if based on that confession—was rendered worthless.

The court had given confessed killer Peter Bartolomeo, just as it would give other hardened habitual criminals, thick protective armor against police interrogation. In the dramatic words of the three dissenting judges on the case, *Bartolomeo* granted "a dispensation for the persistent offender."

Bartolomeo handcuffed New York law enforcement during the 1980s, a time of sharply increasing violent crime. Suddenly, cops from Montauk to Buffalo couldn't question serial thugs, thus losing one of the best weapons in their court-shrunken arsenal. Before *Bartolomeo*, police solved a significant number of crimes by extracting confessions from suspects during interrogation. But now—since no lawyer would allow police to interrogate a client without his presence, and no lawyer, when present, would allow his client to say much of anything—the police could no longer interrogate the 40 percent of those suspects arrested for serious crimes who are recidivists. Who knows how many of these walked away without being charged because of the Court of Appeals' bizarre decision?

The detectives were incredulous. After all, hadn't they followed every procedural safeguard in the book?

Outrages piled up, as New York's courts excluded now-tainted confessions and incriminating statements. In two of the worst examples, the Court of Appeals overturned seemingly well-founded murder convictions. In October 1981, right after *Bartolomeo*, the court threw out the murder conviction of Ronald Smith, whom police in Erie County had arrested in July 1979 as a suspect in the murder of Deborah Pike. They knew Smith had left a bar with the victim on the night of the murder. After the cops read Smith his *Miranda* warnings, he waived his constitutional rights. He admitted that there was

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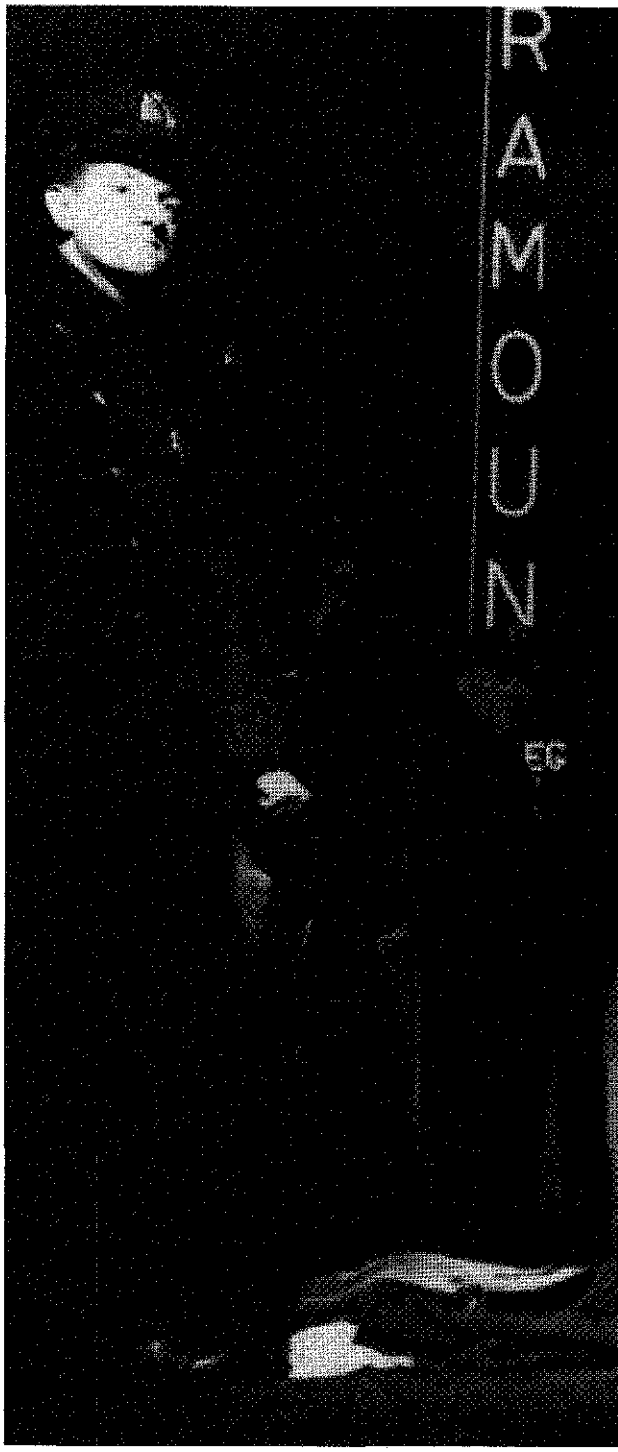
blood in his car the morning after he left the bar with Pike. Later, he admitted that he "vaguely" recalled hitting her, and that he had done "something wrong." It was enough to get him convicted for murder. But the Court of Appeals suppressed Smith's statements: he already had a lawyer for pending sodomy charges when he incriminated himself. According to *Bartolomeo*, he *couldn't* waive his constitutional rights in his lawyer's absence, so the cops weren't allowed to speak to him.

A year later, the court reversed Ricky Knapp's 1978 murder conviction for killing Linda Velzy, an 18-year-old college student he picked up hitchhiking in upstate New York. Knapp, like Smith, waived his constitutional rights and confessed to Oneonta police that he had killed the young girl. But—again like Smith—Knapp had a lawyer for pending sodomy charges when he confessed, so his confession couldn't be used for evidence.

What's even more outrageous about these two decisions is that each killer had confessed or incriminated himself to police *before Bartolomeo*, which the court applied retroactively. The courts apparently believed that the police were—or should have been—clairvoyant. Try as they might to follow court protocol, these cops couldn't possibly foresee the court's future thinking, so they—and the public—were out of luck.

Bartolomeo's profound flaws soon became apparent, even to New York's highest court—though only briefly. Lower courts and the Court of Appeals itself began to chip away at the decision until, ten years later, in a 4-to-3 judgment, the Court of Appeals overruled it entirely in *People* v. *Bing*. The court recognized that its earlier decision protected persistent felony offenders, and it acknowledged that it had taken case law and constitutional interpretation "well beyond their intended scope." The Court of Appeals didn't completely reject the idea of extending the right to counsel to unrelated cases—it simply fell back to the logic of *Rogers*. *Bing* reaffirmed that police had to stop questioning a defendant about an unrelated crime once he asked for his lawyer, or once his lawyer contacted the police. But after *Bing*, it appeared that police again could ask a murder suspect, for example,



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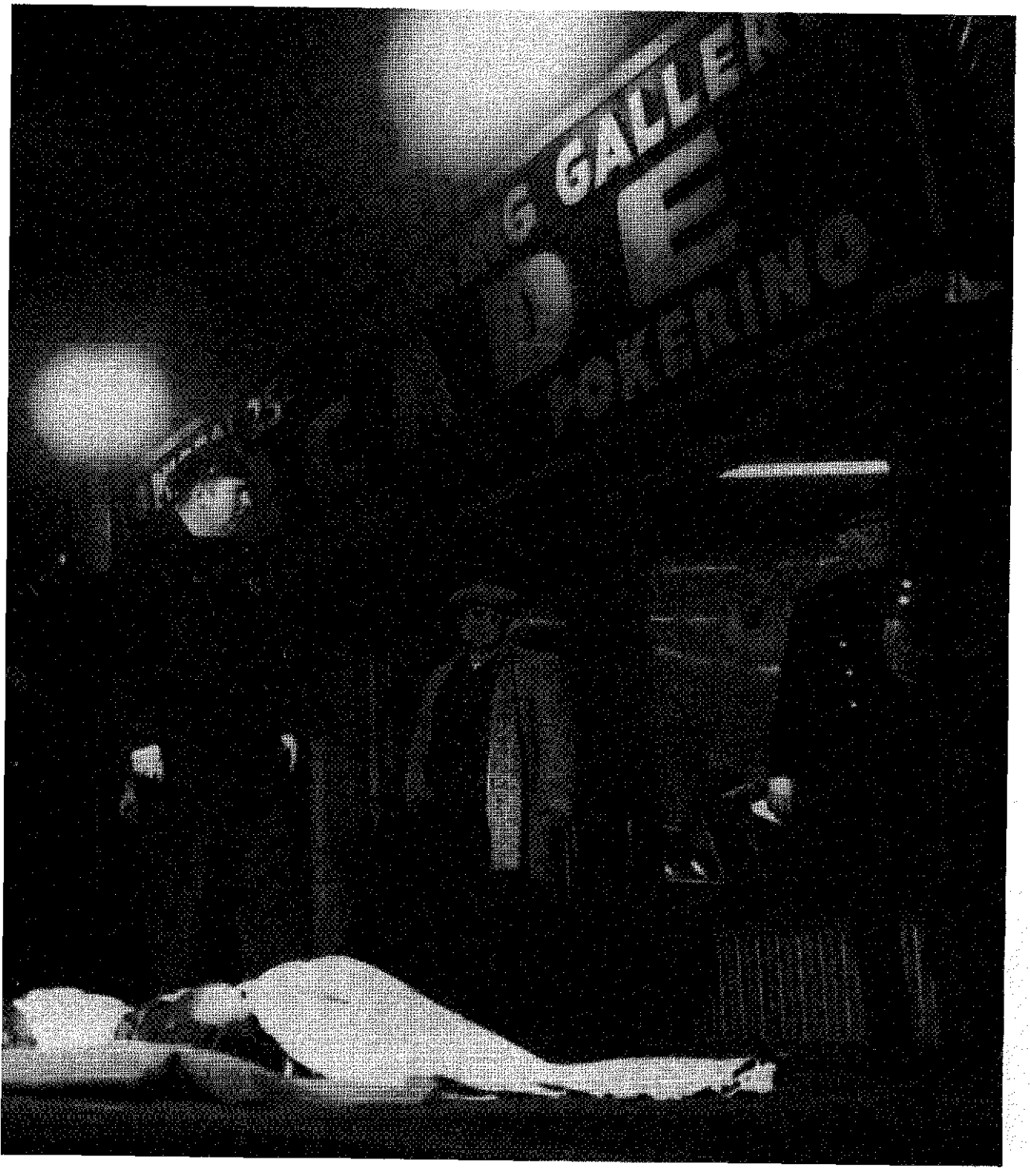

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about an unrelated assault if he wanted to talk, if he waived his constitutional right to have a lawyer present, and if his lawyer wasn't around.

But in *Burdo*, the state's high court pulled out the stake it had planted in *Bartolomeo*'s heart, and almost all *Bartolomeo*'s ills began to plague law enforcement once more. While *Bing* had put the onus on the defendant to say that he had a lawyer, *Burdo*, like *Bartolomeo*, obliges the investigating officers to find out whether he has a lawyer, and, if so, they can't interrogate the suspect. Remember that while police were interrogating Burdo, his lawyer never called them, nor did the police know anything specific about who represented Burdo for the rape charges he faced. There was no evidence of any formal attorney-client relationship—such as a request from Burdo or a phone call from his attorney—that would make the right to counsel kick in under *Bing*'s rules, which the police observed closely. Yet, as with *Bartolomeo*, the court nixed Burdo's freely given confession, because the defendant already had a lawyer for a pending felony charge. The right to counsel once again extended to almost all unrelated crimes.

Not every single one of them, fortunately; *Burdo* doesn't reach quite as far as *Bartolomeo*. But even if it is slightly less restrictive than *Bartolomeo*, *Burdo* has its reasoning backward and tends to protect the more dangerous thug. *Burdo* lets police question a suspect charged with one crime about a second crime only *if he's not incarcerated*. So cops can pick up the thief out on bail and ask him about selling crack, if he waives his right to counsel. But they can forget about interrogating the bail-denied murderer about a rape he might have committed, however ready he might be to confess. By bringing *Bartolomeo* back from the grave, the Court of Appeals has resurrected a rule that has done incalculable damage to law enforcement over the past two decades and has undermined public safety throughout New York.

Over the past 30 years, New York State's Court of Appeals has issued a host of decrees favoring criminals and endangering public safety; *Burdo* is only the court's latest assault on common sense (see "The Court Criminals Love," Winter 1996). In that context, perhaps it shouldn't be surprising that *Bing* provided only a temporary reprieve from the court's confused thinking.

Bartolomeo and *Burdo* go beyond the federal Constitution in hindering criminal investigations. The U.S. Constitution protects against compelled self-incrimination, and it provides for legal counsel. Historically, this simply meant that, if cops *forced* someone to confess, the confession had to be excluded from court. But voluntariness plays no role in the New York Court of Appeals decisions in *Rogers*, *Bartolomeo*, and *Burdo*. New York State's highest court has created an absolute presumption of coercion when police try to question jailed repeat offenders who have lawyers.

On the federal level, where a similar presumption of coercion has started to creep into constitutional law through legal reasoning that mirrors that of New York's highest court, Supreme Court Justice Antonin Scalia has sharply criticized it. Scalia makes an important moral observation: confession is the first step toward an offender's redemption. Courts shouldn't deter criminals from taking responsibility for evil deeds, Scalia argues, but instead should encourage it. We must hope that Scalia's vision prevails on the Supreme Court. But even if reason prevails on the federal level, New York's highest court makes redemption harder to achieve.

Are New York's citizens powerless before the Court of Appeals? Certainly, there's little they can do *directly* to influence it. A true change in direction would be up to the court itself or, eventually, a series of governors who appoint the Court of Appeals' judges to their 14-year terms. But since even judges aren't immune to the pressure of public opinion, it is important for the public to know about such outrages and to voice its disapproval of them.

Francis Burdo beat a man to death, confessed to it, and ultimately escaped justice—for the extraordinary reason that he was an alleged rapist. As legislatures across the country pass laws like California's "Three Strikes" rule, that make it easier to track down and punish career criminals, New York State's Court of Appeals continues to ensure that repeat offenders have more rights than other defendants. ●

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Graphic New York

1) *New York*
(lithograph, 1925)
by Louis Lozowick
(1892-1973)

2) *Queensboro Bridge*
(etching and aquatint, 1930)
by Howard Cook
(1901-1980)

3) *Looking Up Broadway*
(lithograph, 1937)
by Howard Cook

4) *George Washington Bridge*
(lithograph, ca. 1940)
by Jolan Gross-Bettelheim
(1900-1972)

5) *Christopher Street*
(woodcut, 1928)
by Howard Cook

6) *Edison Plant*
(lithograph, 1930)
by Howard Cook

From the collection of Reba and Dave Williams
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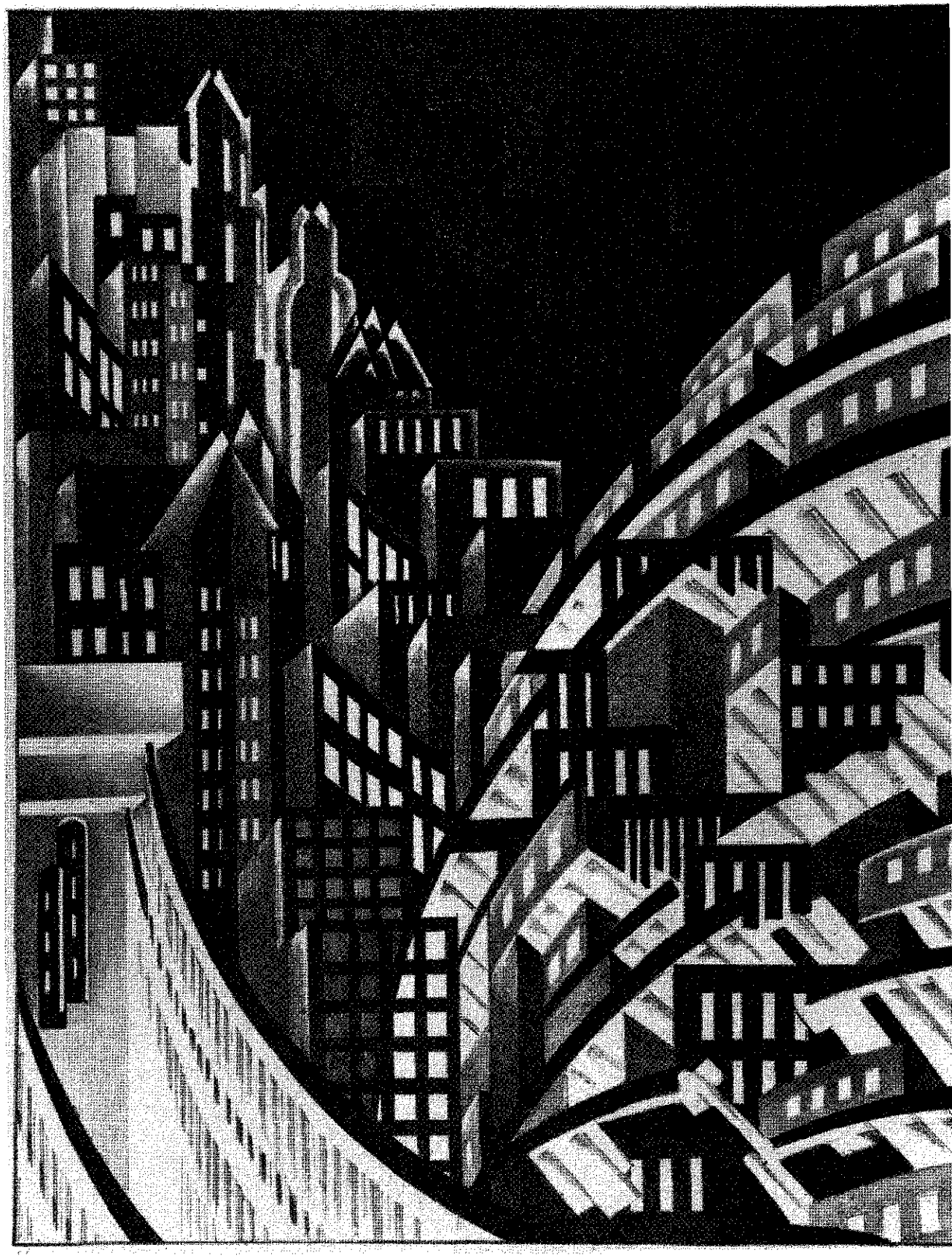

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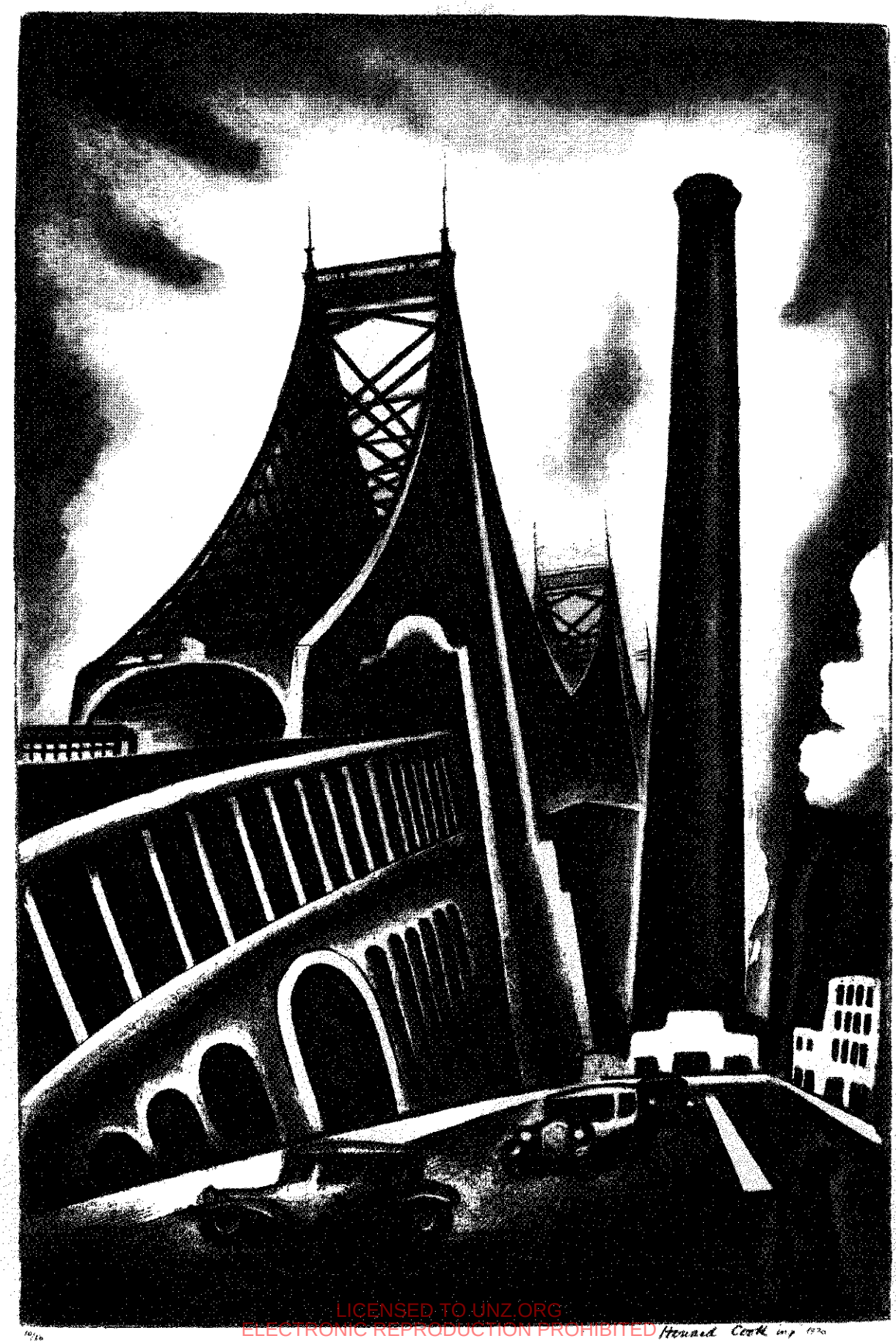

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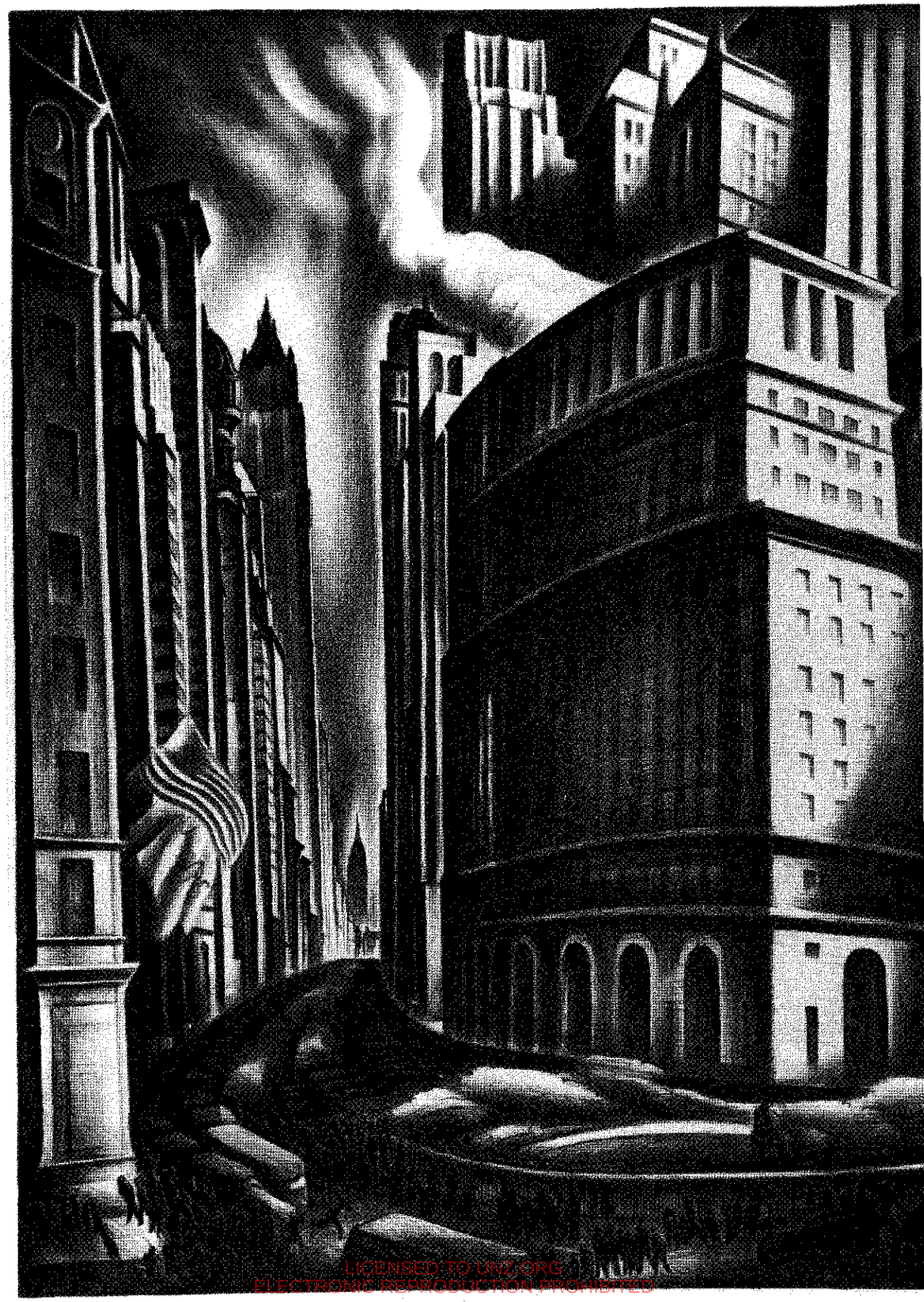

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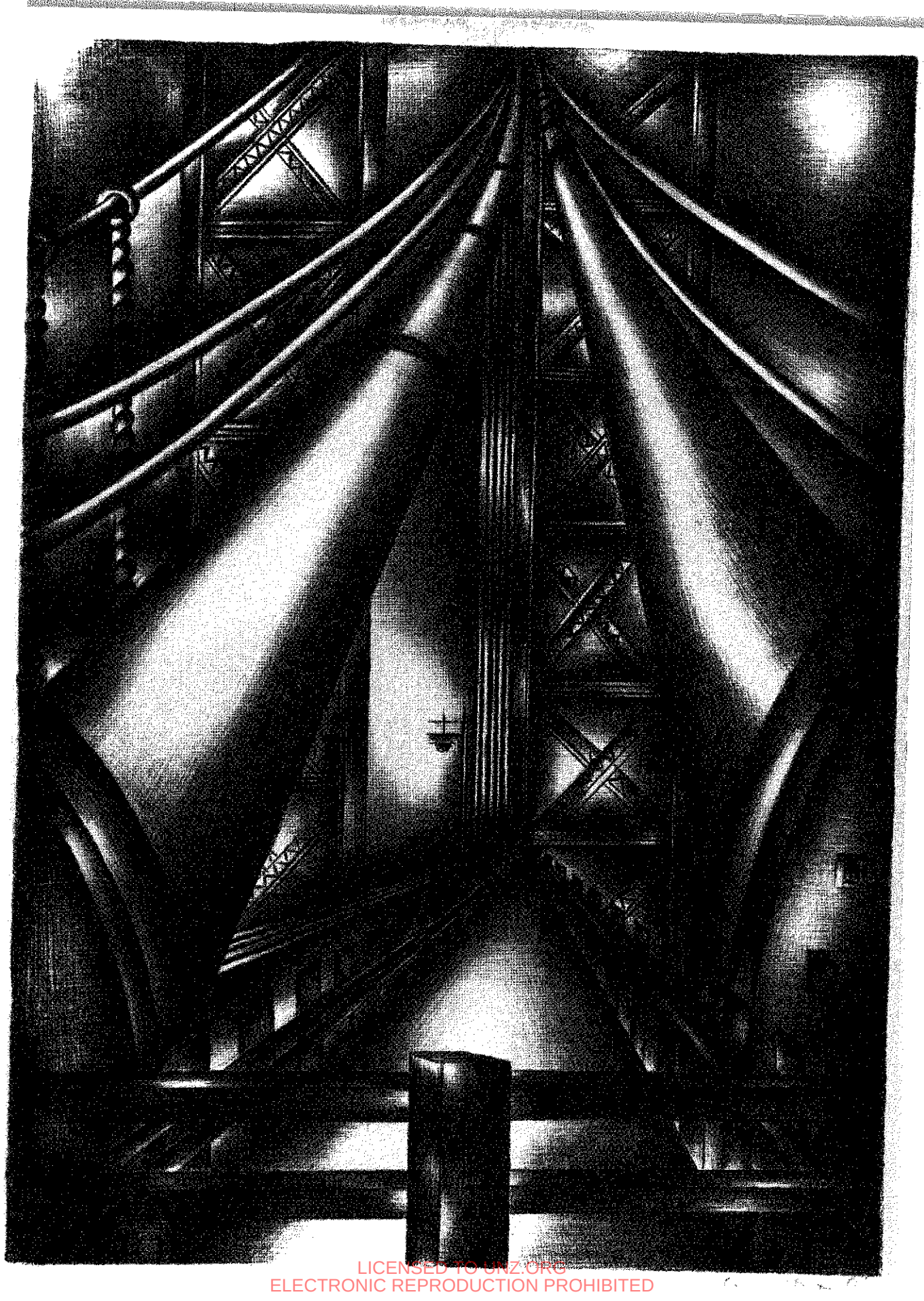

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Kitsch and the Modern Predicament

Roger Scruton

In a celebrated 1939 article, "Avant-Garde and Kitsch," published in *Partisan Review*, the New York art critic Clement Greenberg argued that figurative painting was dead. "The alternative to abstraction," he wrote, "is not Michelangelo but kitsch." Every attempt to make the painted image vie with the photograph, he believed, would lead to disaster, as clichés took charge of the canvas. Henceforth painting must provide its own subject matter: it must be self-sufficient, pure, uncontaminated by the figurative image. The future of painting lay with the "abstract expressionists," as Greenberg described them: the artists who treated painting like music, as a medium for expressing emotion through the use of abstract forms.

Greenberg was perhaps the most influential art critic of his day. His essay set the agenda for an emerging school of New York painters and also set the price tag on their works. Vast sums of public and private money have since changed hands to stock American houses and American museums with works that, to the ordinary eye, have nothing to recommend them apart from their attempt to be abreast of the times. The avant-garde ceased to be a realm of caution and experiment and became, under Greenberg's tutelage, a mass industry. So long as you avoided the literal image, so long as you defied all figurative conventions, you, too, could be a modern painter. You, too, could establish your credentials as a pathbreaking artistic genius, by doing something—no matter what, so long as it left a permanent mark on a purchasable object—that no one had done before. And if you got lucky, you could be rich and famous, like Cy Twombly, on account of images that look like accidents—and might even be accidents, like the numbers that win on the lottery.

Of course, some painters refused to take this path—painters like Edward Hopper, who worked to purify the figurative image and to see again with the innocent eye. But critics and curators remained skeptical; they had invested too heavily in the avant-garde to believe that it was, after all, only a fashion. Hopper's success was therefore viewed as a freakish thing—a last-ditch survival of an art that elsewhere had been killed off by the march of history. For all truly modern people, the critics went on saying, Greenberg's maxim still held good: don't touch the figurative image, or you'll land yourself in kitsch.

The problem is, however, that you land yourself in kitsch in any case. Take a stroll around MoMA, and you will encounter it in almost every room: avant-garde, certainly—novel in its presumption, if not in its effect—but also kitsch, abstract kitsch, of the kind that makes modernist wallpaper or is botched together for the tourist trade on the Boulevard Montparnasse. The effusions of Georgia O'Keeffe, with their gushing suggestions of feminine and floral things, are telling instances. Study them, if you can bear it, and you will see that the disease that rotted the heart of figurative painting has struck at its successor. What makes for kitsch is not the attempt to compete with the photograph but the attempt to have your emotions on the cheap—the attempt to appear sublime without the effort of being so. And this cut-price version of the sublime artistic gesture is there for all to see in Barnett Newman or Frank Stella. When the avant-garde becomes a cliché, then it is impossible to defend yourself from kitsch by being avant-garde.

If we look back over European art before the mid-eighteenth century, we find occasional lapses into sentimentality—in Murillo, for example, or Guido Reni or Greuze. We also discover mechanical and cliché-ridden art, like the music of Vivaldi. But we find nothing that really could be described as kitsch—not even Vivaldi's *Four Seasons*, which has survived its demotion to Muzak without losing its unaffected simplicity. The artless art of primitive people, the art of the

Kitsch art, like "The Birth of Venus" by Bouguereau (1825–1905) or . . .

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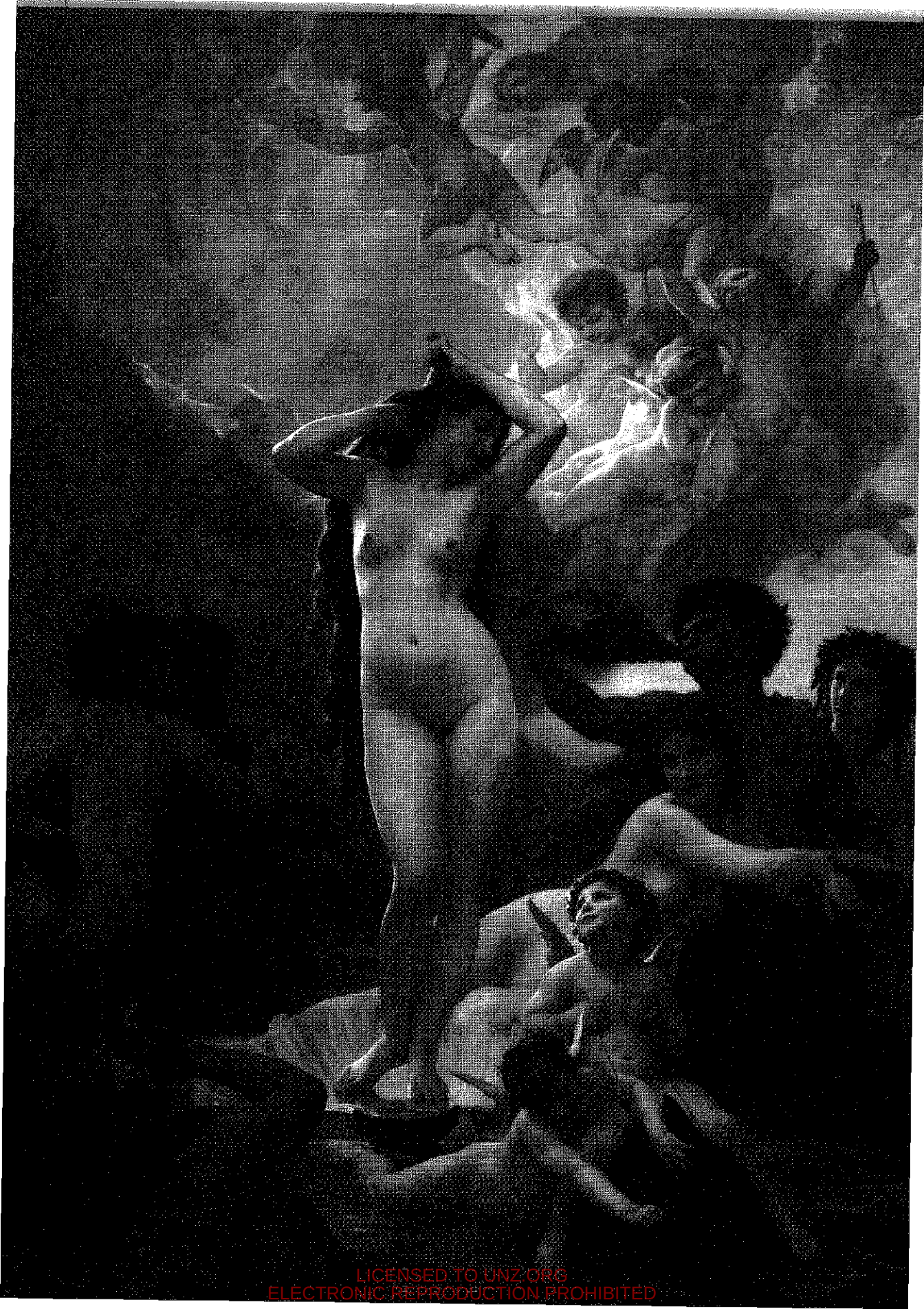

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ART RESOURCE

. . . "Princess Sabra ou la Fille du Roi" by Burne-Jones (1833–1898), traffics in false emotion.

medieval stonemasons and stained-glass makers—all these are naive and devoid of high pretensions. Yet none is kitsch, nor could it be. This art never prompts that half-physical revulsion—the "yuk!" feeling—that is our spontaneous tribute to kitsch in all its forms. Of course, stained-glass kitsch exists, but it is the work of Pre-Raphaelites and their progeny—the work of sophisticated people, conscious of their loss of innocence. We all admire the craftmanship of Burne-Jones, but we are also conscious that his figures are not angels, but children dressing up.

Critics noticed and lamented the capture of the visual arts by fake emotion long before the word "kitsch" was invented. The art of Bouguereau was a triumphant version of what was soon to be a mass-marketed product—and a major import to America. *L'art pompier*, as it was later known—pumped-up art—prompted Baudelaire's famous essay in defense of Manet, "The Painter of Modern Life"; it led to the revolt of the Impressionists against the salons and to the first conscious split between highbrow and middlebrow taste. Modernism was in part a defense against the sentimentality of mass culture. And the first desire of the modernists was to re-connect themselves to the innocent, prelapsarian art of people uncorrupted by the modern media. Pound and

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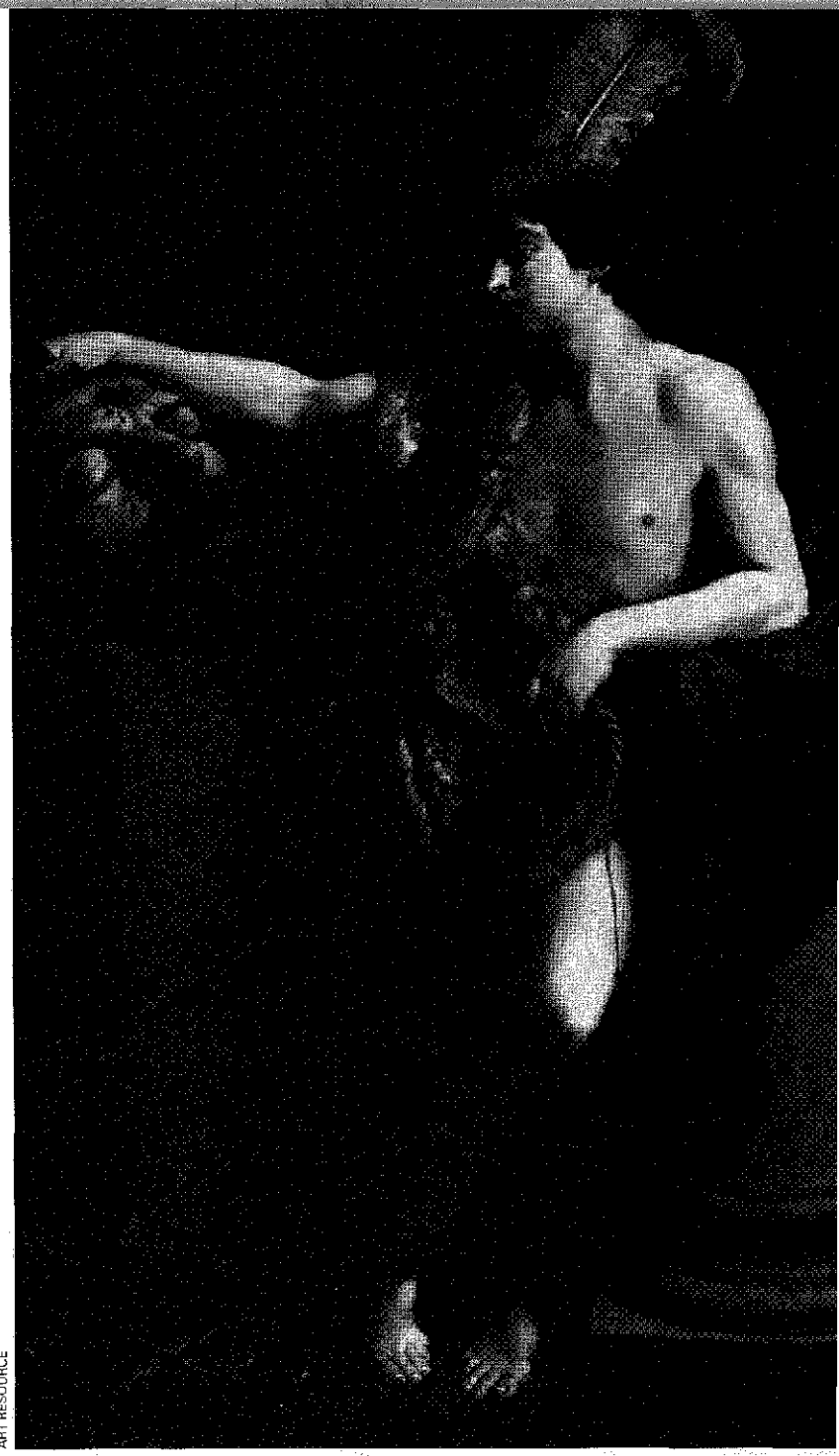
Eliot in literature, Bartók, Copland, and Stravinsky in music, Picasso and Gauguin in painting—all were keen anthropologists, looking for those "genuine" and unforced expressions of sentiment against which to weigh the empty clichés of the post-romantic art industry.

They were surely right that kitsch is a modern invention. But pre-modern people are not proof against it. On the contrary, their immune systems seem helpless in the face of this new contagion; today the mere contact of a traditional culture with Western civilization is sufficient to transmit the disease, rather as tribes were once rescued from their darkness by colonial adventurers and missionaries, only to die at once from smallpox or TB. A century ago, no African art was kitsch. Now kitsch is on sale in every African airport—antelopes, elephants, witch doctors, and hobgoblin deities, skillfully carved in ivory or tropical hardwood, imitating the enchanted figures that inspired Picasso but, in this or that barely perceptible detail, betraying their nature as fakes.

Much of our present cultural situation can be seen as a response to this remarkable phenomenon—not, I think, encountered before the Enlightenment but now ubiquitous and inescapable. In all spheres where human beings have attempted to ennoble themselves, to make examples and icons of the heroic and the sublime, we encounter the mass-produced caricature, the sugary pretense, the easy avenue to a dignity destroyed by the very ease of reaching it. "Kitsch," wrote Greenberg, "is the epitome of all that is spurious in the life of our times." And he had in mind not figurative painting only, but Hollywood, popular music, the picture postcard, and indeed, all the flotsam of mass culture. One's main thought, nevertheless, on reading Greenberg's essay is: "How



ART RESOURCE

Art of the past, like "Davide Vincitore" by Guido Reni (1575–1612), could be sentimental but usually wasn't factitious.

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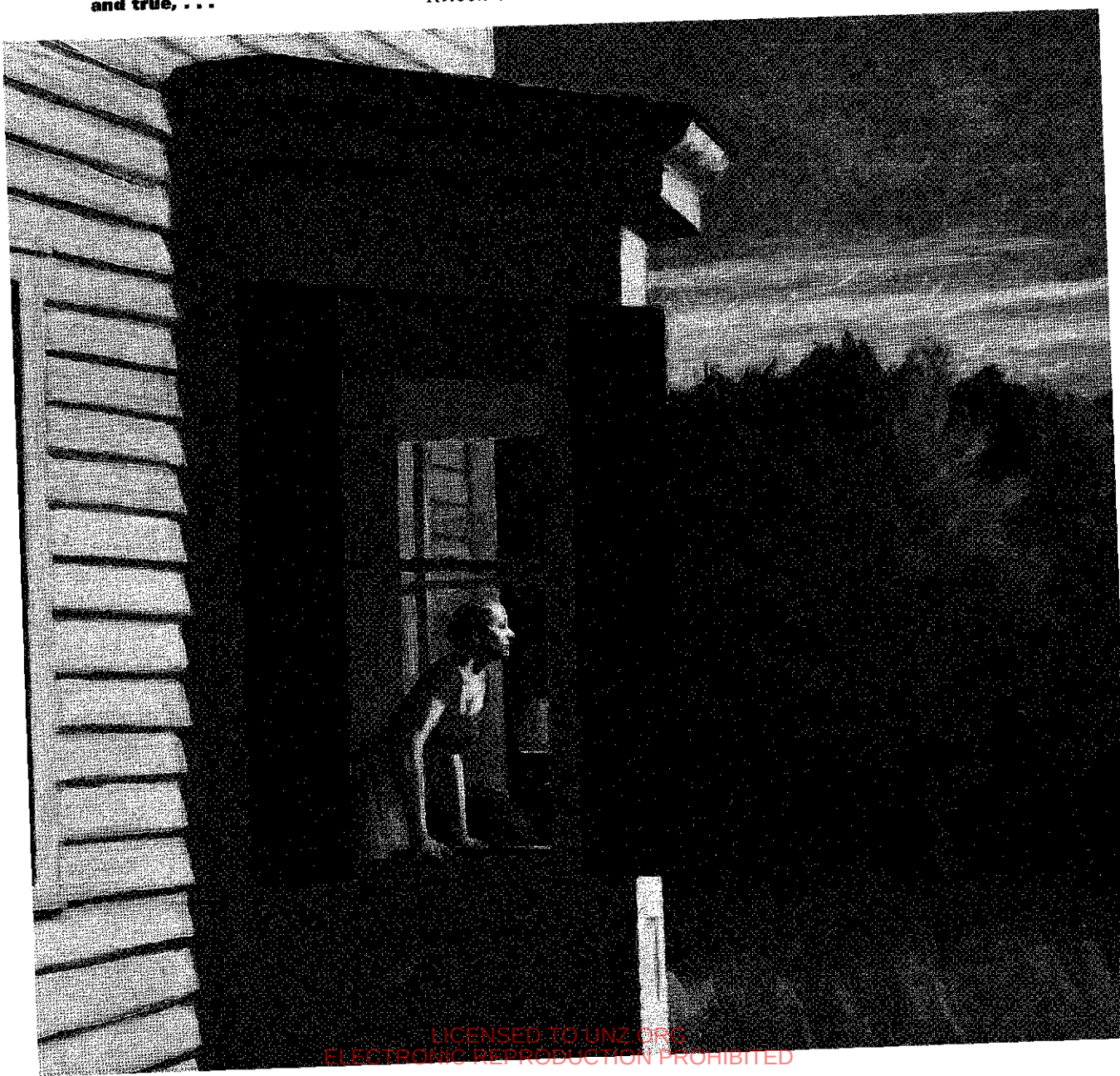
lucky he was to live then and not now."

The word "kitsch" comes to us from German, though its origins are obscure: many suspect a Yiddish input, a knowing wink from the shtetl. German art and literature of the last century certainly provide some of the choicest instances—many of them gathered together by Gert Richter in his invaluable *Kitsch-Lexikon von A bis Z*. Nevertheless, the Germans should not take all the blame. It is in America that kitsch reached its apogee, not as a form of life but as a way of death. In Forest Lawn Memorial Park, death becomes a rite of passage into Disneyland. The American funerary culture, so cruelly sati-

Hopper's "Cape Cod Morning" (1950) shows that realistic modern art can be moving and true, . . .



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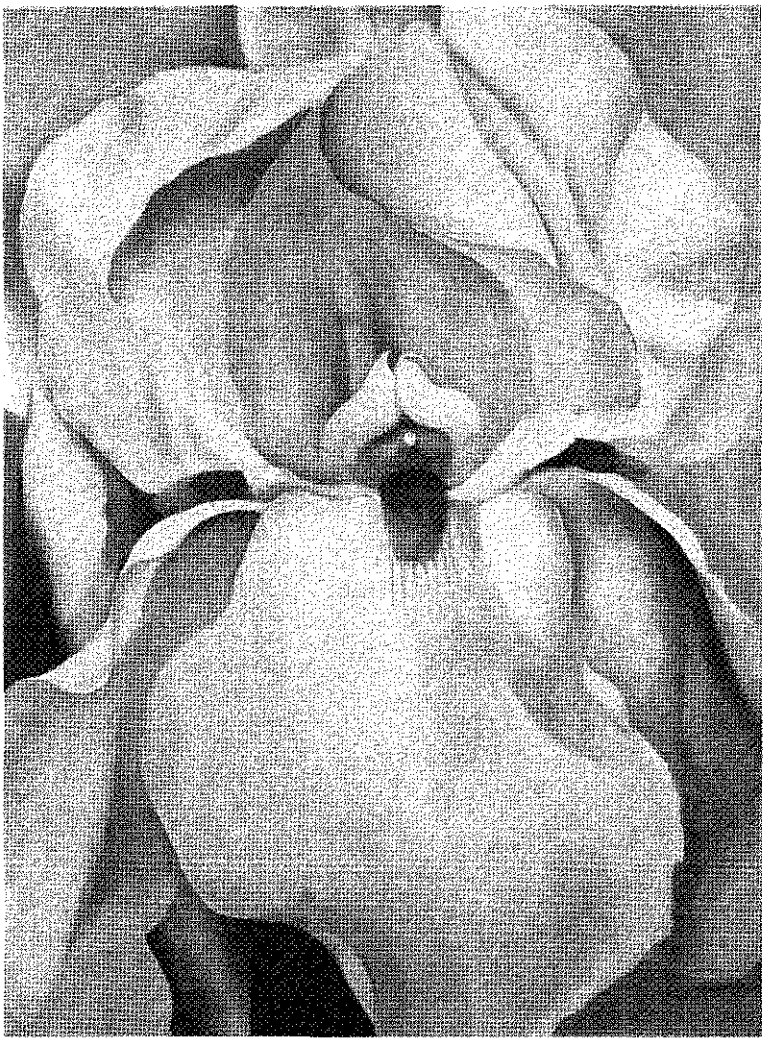
rized by Evelyn Waugh in *The Loved One*, attempts to prove that this event, too—the end of man's life and his entry into judgment—is in the last analysis unreal. This thing that cannot be faked becomes a fake. The world of kitsch is a world of make-believe, of permanent childhood, in which every day is Christmas. In such a world, death does not really happen. The "loved one" is therefore reprocessed, endowed with a sham immortality; he only pretends to die, and we only pretend to mourn him.

Those things that challenge us to transcend ourselves, to be something more than dependent children, are the places where the kitsch-fly lays its eggs. Death demands grief and dignity and suffering. It is therefore kitsched into a sweeter and slushier condition, a childlike slumber that brings sentimental tears, like the death of Little Nell at the end of Dickens's *Old Curiosity Shop* (proof, if proof were needed, that great artists are not all immune from kitsch). And such tears are easily wiped away. ("A man needs a heart of stone," as Oscar Wilde famously said, "not to laugh at the death of Little Nell.") When tragedy enters the world of kitsch, it is denatured, purged of that absolute sense of loss that is the proper response to the death of a moral being. That's why kitsch tragedy tends so often to be played out with animals—like the mother deer's death in Walt Disney's *Bambi*, which elicits grief harmlessly because the character is—literally—a cartoon.



ART RESOURCE

. . . while Georgia O'Keeffe's "White Iris No. 7" (1957) shows how easily modern realism becomes kitsch.

In my grandmother's piano stool was a stack of sheet music from the twenties and thirties—Billy Mayerl, Horatio Nicholls, Albert Ketelbey—and this was my apprenticeship in popular culture. Such music was part of the family, played and sung with intense nostalgia on wedding anniversaries, birthdays, Christmases, and family visits. Every piece had an extra-musical meaning, a nimbus of memory and idle tears.

I got to know the once famous, now notorious, piece of light music by Ketelbey called "In a Monastery Garden" in a piano

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reduction. Recently, I listened to the full orchestral version, in which birds tweet above the corny melody, while a choir of monks sings "Kyrie Eleison" from afar. This experience provided another kind of insight into kitsch. Ketelbey's music is trying to do what music cannot do and should not attempt to do—it is telling me what it means, while meaning nothing. Here is heavenly peace, it says; just fit your mood to these easy contours, and peace will be yours. But the disparity between the emotion claimed by the music and the technique used to suggest it shows the self-advertisement to be a lie. Religious peace is a rare gift, which comes about only through spiritual discipline. The easy harmonic progressions and platitudinous tune take us there too easily, so that we know we have not arrived. The music is faking an emotion, by means that could never express it.

Patriotic kitsch: a masquerade of honor, . . .

Kitsch is pretense. But not all pretense is kitsch. Something else is needed to create the sense of intrusion—the unwanted hand on the knee. Kitsch is not just pretending; it is asking you to join in the game. In real kitsch, what is being faked cannot be faked. Hence the pretense must be mutual, complicitous, knowing. The opposite of kitsch is not sophistication but innocence. Kitsch art is *pretending* to express something, and you, in accepting it, are pretending to feel.

Kitsch therefore relies on codes and clichés that convert the higher emotions into a predigested and trouble-free form—the form that can be most easily pretended. Like processed food, kitsch avoids everything in the organism that asks for moral energy and so passes from junk to crap without an intervening spell of nourishment.

What brought this peculiar form of pretense into being? Here is a suggestion. We are moral beings, who judge one another and ourselves. We live under the burden of reproach and the hope of praise. All our higher feelings are informed by this—and especially by the desire to win favorable regard from those we admire. This ethical vision of human life is a work of criticism and emulation. It is a vision that all religions deliver and all societies need. Unless we judge and are judged, the higher emotions are impossible: pride, loyalty, self-sacrifice, tragic grief, and joyful surrender—all these are artificial things, which exist only so long as, and to the extent that, we fix one another with the eye of judgment. As soon as we let go, as soon as we see one another as animals, parts of the machinery of nature, released from moral imperatives and bound only by natural laws, then the higher

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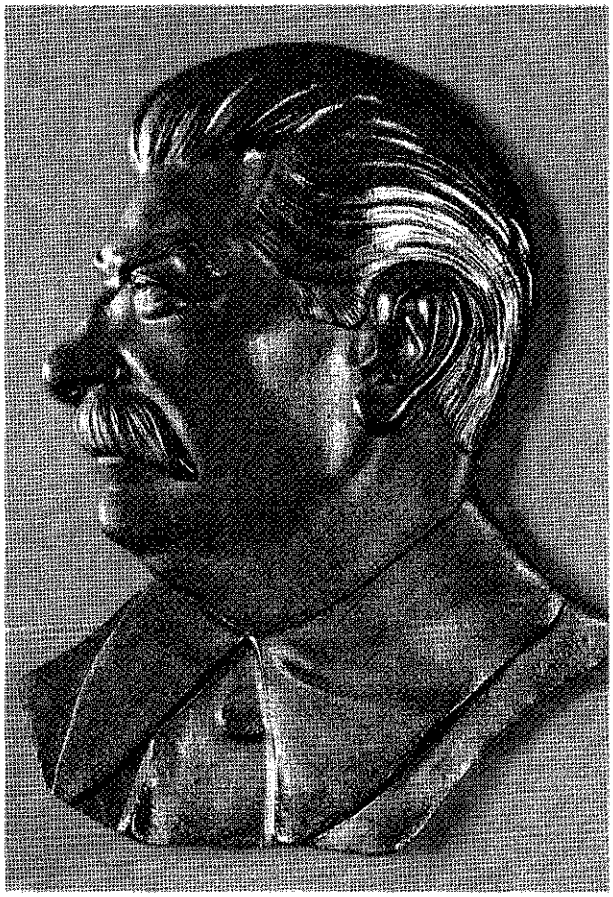
emotions desert us. At the same time, these emotions are necessary: they endow life with meaning and form the bond of society.

Hence we find ourselves in a dangerous predicament. The emotions that we need cannot be faked; but the vision on which they depend—the vision of human freedom and of mankind as the subject and object of judgment—is constantly fading. And in these circumstances, there arises the temptation to replace the higher life with a charade, a moral conspiracy that obscures the higher life with the steam of the herd.

This explains why the Enlightenment is so important. For it changed our vision of the moral life. Previously, the judgment that was invoked in our higher feelings was experienced as the judgment of God. After the Enlightenment, it was experienced as the judgment of men and women. The greatest art of the Enlightenment is devoted to rescuing mankind from this predicament by showing that human judgment is sufficient to raise us above the beasts and to endow our works with the dignity that may come from human freedom. Such is the message of *The Magic Flute* and of *Faust*.

Unsupported by faith, however, the ethical vision falters.



. . . courage, and nobility.

Whether it ought to falter may be doubted; but it does so, and the proof of this is romanticism. The romantic artist is attempting to invest human life with a religious aura—to rewrite those purely human experiences of conflict and passion as though they originated in the divine. In this way, nineteenth-century art served to sustain the vision of a higher life in the midst of bourgeois mediocrity. But behind the efforts of the romantic avant-garde, another force was gathering momentum, and this force was kitsch. Romantic art involves a heroic attempt to re-enchant the world: to look on human beings as though they had the significance and the dignity of angels. To sustain this attempt requires moral and aesthetic discipline, of the kind we witness in Brahms or Keats or Wagner. It also requires a work of the imagination, a searching of ordinary human life for those sacramental moments when the light of freedom shines through.

This work of the imagination is not possible for everyone; and in an age of mass communication, people learn to dispense with it. And that is how kitsch arises—when people who are avoiding the cost of the higher life are nevertheless pressured by the surrounding culture into pretending that they possess it. Kitsch is an attempt to have the life of the spirit on the cheap.

Hence the earliest manifestations of kitsch are in religion: the plaster saints and doe-eyed

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ART RESOURCE

If you produce kitsch with knowing irony, like Warhol's "Marilyn" (1967) . . .

madonnas that sprang up during the nineteenth century in every Italian church, the cult of Christmas and the baby Jesus that replaced the noble tragedy of Easter and the narrative of our hard-won redemption. Kitsch now has its pantheon of deities—deities of make-believe like Santa Claus—and its book of saints and martyrs, saints of sentiment like Linda McCartney and martyrs to self-advertisement like Princess Diana.

The First World War saw the rapid rise of patriotic kitsch, and the great crimes and revolutions of our century have taken place behind a veil of kitsch: look at the art and propaganda of Nazi Germany and revolutionary Russia, and you will see the unmistakable sign of it—the gross sentimentality, the mechanical clichés, and the constant pretense at a higher life and a noble vision that can be obtained just like that, merely by putting on a uniform. Socialist realism, Nazi nationalism, the Nuremberg rallies and May Day parades—the best description of such things was once given to me by a Czech writer, at the time working underground: "kitsch with teeth."

Serious artists are inevitably aware of kitsch: they fear it, are constantly on guard against it, and if they flirt with

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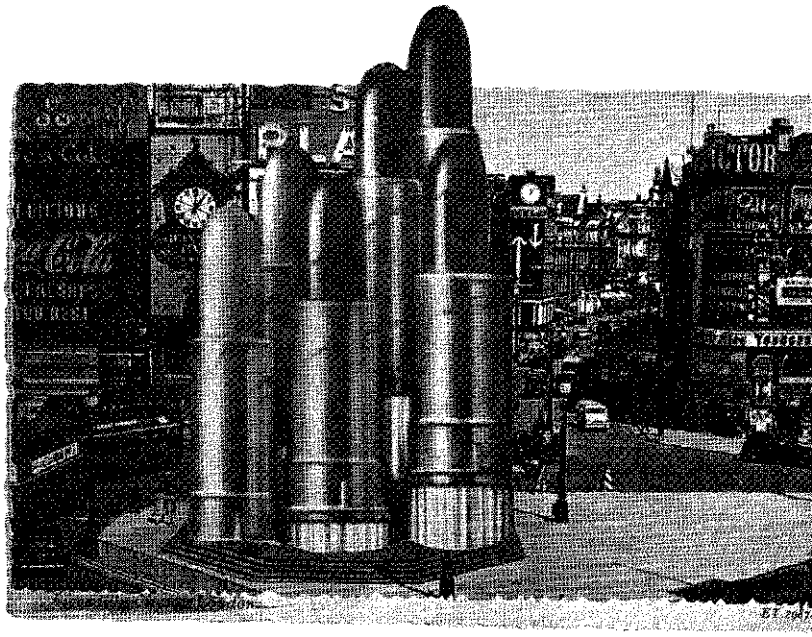
kitsch it is with a sense of risk, knowing that all artistic effort is wasted should you ever cross the line. No artist better illustrates this than Mahler. Time and again in his great symphonies he finds himself tempted: he himself admitted it, though in other words, to Freud. The mass-produced nostalgia of the Hapsburg empire is waiting at the door of consciousness and could burst in at any time. Waiting, too, is that winsome, folk-inspired evocation of adolescent love, with its horn chords and lingering upbeats, its lilting rhythm and familiar tonal phrases. Listen to the slow movement of the Sixth Symphony, and you will sense it hovering out of earshot, held back by phrases just that bit more angular than the cliché requires, by Wagnerized harmonies, and by an instrumentation that lets in a breeze of saving irony. In the adagietto of the Fifth Symphony, by contrast, kitsch is triumphant. The result is film music par excellence—and used as such by Visconti, in his kitsched-up version of Mann's *Death in Venice*.

This fear of kitsch was one of the motives behind modernism in the arts. Tonal music, figurative painting, rhyming and regular verse—all seemed, at the time of the modernist experiments, to have exhausted their capacity for sincere emotional expression. To use the traditional idioms was to betray the higher life—which is why Clement Greenberg told his readers that there was, between abstract art and kitsch, no third way.

At the same time, there is something utopian in Greenberg's condemnation. Kitsch is omnipresent, part of the language, and a seemingly inevitable aspect of cultural democracy. It is the debased coinage of the emotions. Kitsch is advertising, just as most advertising is kitsch. It is an attempt to turn value into price, the problem being that its subject matter has a value only when it is not pretended and a price only when it is. Hence the market in emotion must deal in simulated goods.

This is why the loss of religious certainty facilitated the birth of kitsch. Faith exalts the human heart, removing it from the marketplace, making it sacred and unexchangeable. Under the jurisdiction of religion, our deeper feelings are sacralized, so as to become raw material for the ethical life, the life lived in judgment. When faith declines, however, the sacred loses one of its most important forms of protection from marauders; the heart can now more easily be captured and put on sale. Some things—the human heart is one of them—can be bought and sold only if they are first denatured. The Christmas-card sentiments advertise what cannot be advertised without ceasing to be: hence the emotion that they offer is fake.



TATE GALLERY, LONDON/ART RESOURCE

. . . or Oldenburg's "Lipsticks in Piccadilly Circus, London" (1966), what you get is still kitsch.

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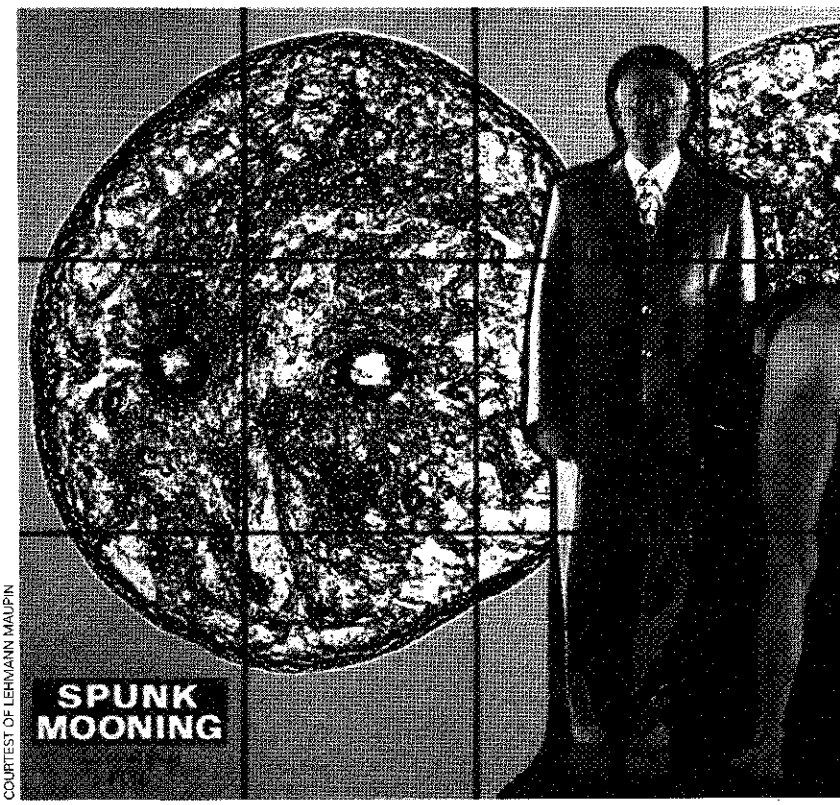
Kitsch reflects our failure not merely to value the human spirit but to perform those sacrificial acts that create it. It is a vivid reminder that the human spirit cannot be taken for granted, that it does not exist in all social conditions, but is an achievement that must be constantly renewed through the demands that we make on others and on ourselves. Nor is kitsch a purely aesthetic disease. Every ceremony, every ritual, every public display of emotion can be kitsched—and inevitably will be kitsched, unless controlled by some severe critical discipline. (Think of the Disneyland versions of monarchical and state occasions that are rapidly replacing the old stately forms.) It is impossible to flee from kitsch by taking refuge in religion, when religion itself is kitsch. The "modernization" of the Roman Catholic Mass and the Anglican prayer book were really a "kitschification": and attempts at liturgical art are now poxed all over with the same disease. The day-to-day services of the Christian churches are embarrassing reminders of the fact that religion is losing its sublime godwardness and turning instead toward the world of fake sentiment.

In art, there comes a point where a style, a form, an idiom, or a vocabulary can no longer be used without producing cliché. Fear of this debasement led to the routinization of the avant-garde. By posing as avant-garde, the artist gives an easily perceivable sign of his authenticity. But the result, I have suggested, is kitsch of another kind and a loss of genuine public interest. Patronage keeps the avant-garde in business; but patronage lacks the power to sustain the avant-garde's position as the censor of modern culture.

This is one reason for the emergence of a wholly new artistic enterprise, which some call "postmodernism" but which might better be described as "preemptive kitsch." Having recognized that modernist severity is no longer acceptable—for modernism begins to seem like the same old thing and therefore not modern at all—artists began not to shun kitsch but to embrace it, in the manner of Andy Warhol, Alan Jones, and Jeff Koons. The worst thing is to be unwittingly guilty of producing kitsch; far better to produce kitsch deliberately, for then it is not kitsch at all but a kind of sophisticated parody. (The intention to produce real kitsch is an impossible intention, like the intention to act unintentionally.) Preemptive kitsch sets quotation marks around actual kitsch and hopes thereby to save its artistic credentials. The dilemma is not: kitsch or avant-garde, but: kitsch or "kitsch."



COURTEST OF LEHMANN MAUPIN

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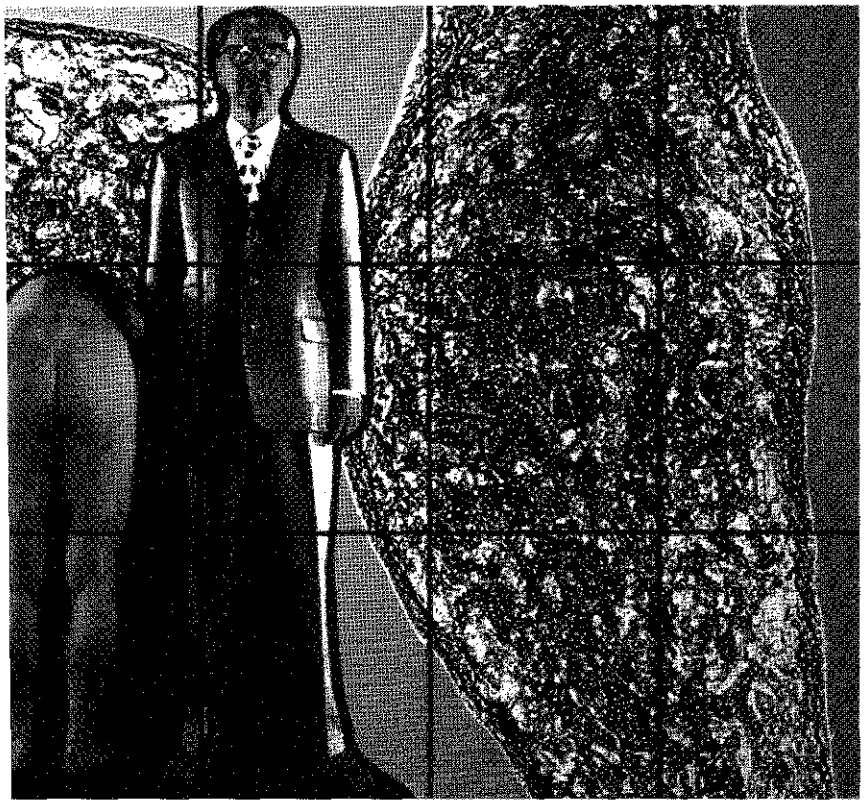
The quotation marks function like the forceps with which a pathologist lifts some odoriferous specimen from its jar.

And so modernist severity has given way to a kind of institutionalized flippancy. Public galleries and big collections fill up with the predigested clutter of modern life, obsolete the moment it goes on permanent display. Such is the "art" of Damien Hirst, Chris Ofili (winner of this year's Turner Prize), Gilbert and George, and all the other poseurs who dominate the British art scene. Art as we knew it required knowledge, competence, discipline, and study. Preemptive kitsch, by contrast, delights in the tacky, the ready-made, and the cut-out, using forms, colors, and images that both legitimize ignorance and also laugh at it, effectively silencing the adult voice—as in Claes Oldenburg and Jeff Koons. Such art eschews subtlety, allusion, and implication, and in place of imagined ideals in gilded frames it offers real junk in quotation marks. It is indistinguishable in the end from advertising—with the sole qualification that it has no product to sell except itself.

But here we should look again at those postmodernist quotation marks. Maybe, after all, they are what they seem: not a sign of sophistication but a sign of pretense. Quotation marks are one thing when localized and confined, but they are another thing when generalized, so as to imprison everything we say. For then they make no contrast and lose their ironical force. Generalized quotation marks neither assert nor deny what they contain but merely present it. The result is not art but "art"—pretend art, which bears the same relation to the artistic tradition as a doll bears to human beings.

And the sentiments conveyed by this "art" similarly are elaborate fakes, as remote from real emotion as the kitsch that the "art" pretends to satirize. The advertising techniques this "art" employs automatically turn emotional expression into kitsch. Hence the quotation marks neutralize and discard the only effect that postmodernist "art" could ever accomplish. Preemptive kitsch offers fake emotion and at the same time a fake satire of the thing it offers. The artist pretends to take himself seriously, the critics pretend to judge his product, and the avant-garde establishment pretends to promote it. At the end of all this pretense, someone who cannot perceive the difference between advertisement and art decides that he should buy it. Only at this point does the chain of pretense come to an end and the real value of post-



Gilbert and George's "Spunk Mooning" (1996): art should aim at higher ends.

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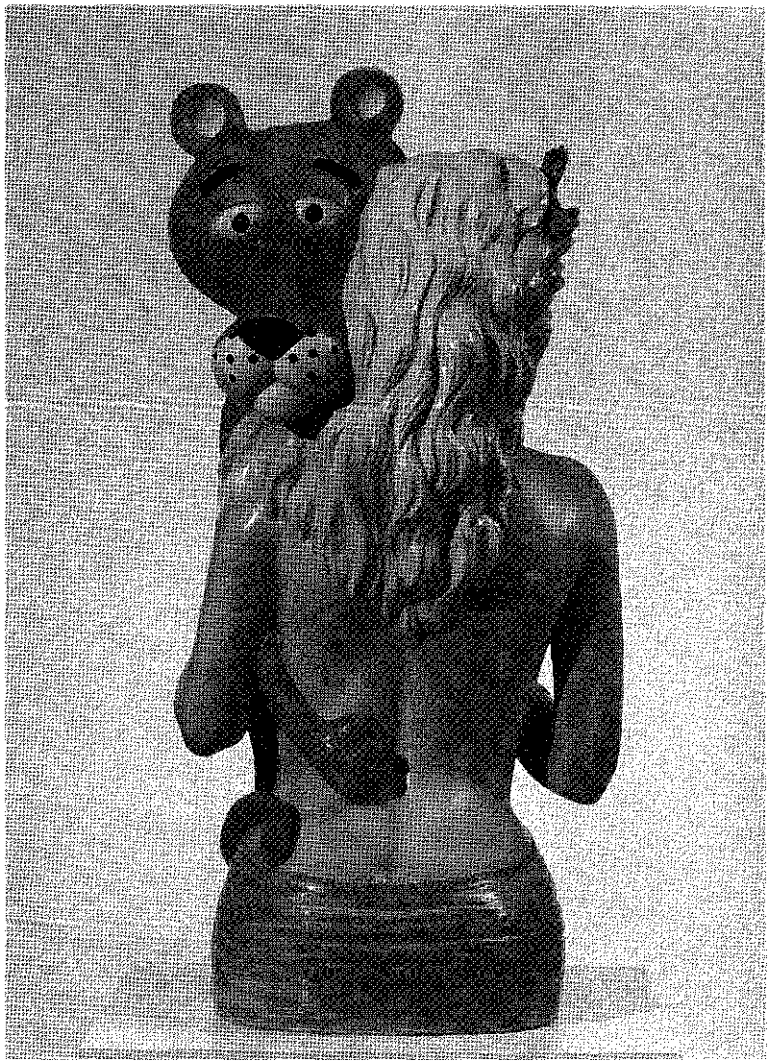
modernist art reveal itself—namely, its value in exchange. Even at this point, however, the pretense is important. For the purchaser must believe that what he buys is real art and therefore intrinsically valuable, a bargain at any price. Otherwise, the price would reflect the obvious fact that anybody—even the purchaser—could have faked such a product.

Can we escape from kitsch? In real life, it surrounds us on every side. Pop music, cartoons, Christmas cards—these are familiar enough. But the escape routes are also kitsched. Those who flee from the consumer society into the sanctuary of New Age religion, say, find that the walls are decorated with the familiar sticky clichés and that the background music comes from Ketelbey via Vangelis and Ravi Shankar. The art museums are overflowing with abstract kitsch, and the concert halls have been colonized by a tonal minimalism that suffers from the same disease. Nor is the world of politics immune. The glimpses that we see of life in Baghdad show a return to the high kitsch of Nazi Germany, with portraits of the Leader in heroic postures and architectural extravanganzas that outdo the most camp of Mussolini's stage sets. But look at our own political world and we encounter kitsch of another and more comical kind. The kitsch-fly has laid its eggs in every office of state, and gradually the organism is softening. What is Monica Lewinsky if not kitsch, object and subject of the most expensive fake emotion since Caligula? The epic of which she was a part is in the style of Walt Disney, and the object of her affections was not a president but a "president."



DOUGLAS PARKER PHOTOGRAPHY

94 Jeff Koons's "Pink Panther" (1988) . . .

Art resists the disease; if it ceases to resist, it is no longer art. The writers, composers, and painters whom we admire are those who portray the uncorrupted soul, who show us how we might feel sincerely, even in an age when fake emotion is the currency of daily life. The task of criticism is surely to guide us to these artists and to teach us to mea-

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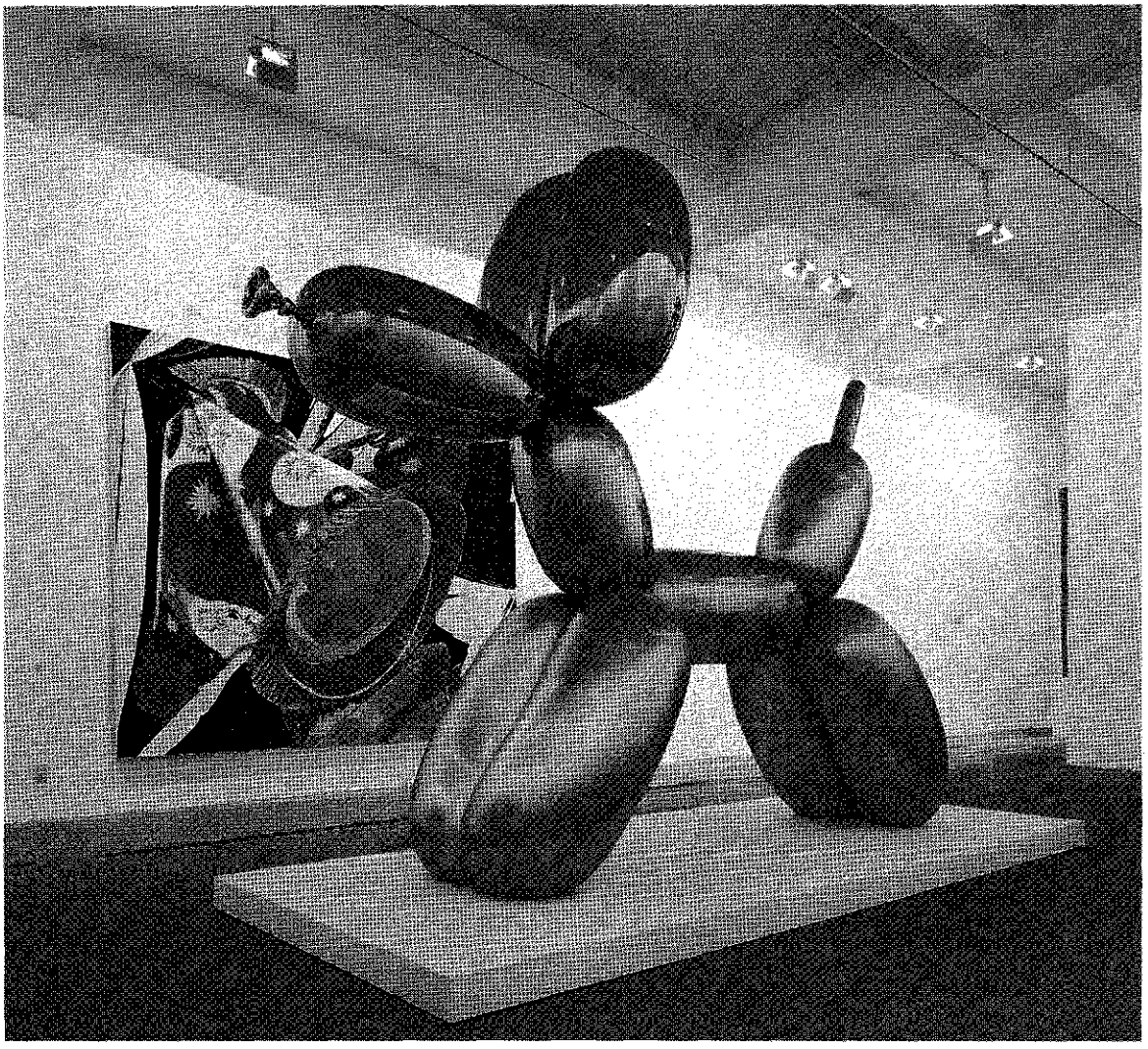

DOUGLAS PARKER PHOTOGRAPHY

. . . and "Balloon Dog" (1995–98) are not art but "art."

sure our lives by their standard. It should dwell on the art of the past, which offers such moving instances of humanity in its exalted and self-redemptive state. And it should select from our contemporaries poets like Rosanna Warren and Geoffrey Hill, composers like Arvo Pärt, and novelists like Ian McEwan: not that they are without faults, but they have retained the ability to distinguish the true from the false emotion and so offer comfort to the contrite heart.

But each of us, in his own way, conducts his solitary fight against the loss of dignity. Through family, religion, and the forms of public life, we shield ourselves from the horrific vision that surrounds us—the vision of ourselves as fakes. That is perhaps why we should value kitsch. It flows all about us and warns us that we must tread carefully and be guided by those who know. Never before in the history of civilization has art—true art—been so morally useful. ●

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And on the Right, Charles Dickens!

Stefan Kanfer

The left has always claimed Charles Dickens as one of its own. The mistake is understandable. After all, the author tirelessly agitated for political reform, inveighed against the moral squalor of industrial society, became the voice of battered children, and wrote movingly about debtors' prisons, where his father had languished. No one was quicker at spotting and savaging Victorian hypocrisy. Who can forget Uriah Heep assuring David Copperfield, "I am a very 'umble person," as he rubs his hands in anticipation of some new personal gain? Or the Veneerings, those classic arrivistes of *Our Mutual Friend:* "All their furniture was new, all their friends were new, all their servants were new, their plate was new, their carriage was new, their harness was new, their horses were new, their pictures were new, they themselves were new, they were as newly married as was lawfully compatible with their having a bran-new baby, and if they had set up a great-grandfather, he would have come home in matting from the Pantechnicon, without a scratch upon him, French polished to the crown of his head."

Moreover, Dickens had little use for probes into a politician's past. *Martin Chuzzlewit* begins with a visit to America, where a newsboy hawks copies of the *New York Sewer*, a daily newspaper: "There's the *Sewer*'s exposure of the Wall Street Gang, and the *Sewer*'s exposure of the Washington Gang, and the *Sewer*'s exclusive account of a flagrant act of dishonesty committed by the Secretary of State when he was eight years old; now communicated, at a great expense, by his own nurse."

On top of this literary oeuvre, Dickens's personal behavior eases the liberal conscience. For after a fierce midlife crisis, he conducted himself, at least for a brief interval, in the style of an aging rock star, dumping his wife and taking up with a younger woman—an actress, no less. Surely this is proof of a rebellious heart and an unconventional nature.

And yet . . . and yet. With all his extravagant behavior and prodigious sympathies, Dickens was no firebrand seeking to subvert conservative values. The observation of the British critic W. R. Inge retains its salinity: "The operation of flogging a dead horse is always popular and very congenial. . . . Dickens was careful to castigate abuses that were being reformed." He was, in fact, heavily committed to decorum and order, in the belief that minor infractions, unchecked, could lead to the collapse of the state. As I went through Penguin Classics' recently published volume *Charles Dickens: Selected Journalism 1850—1870,* it occurred to me that the author would have been right at home in contemporary Manhattan. He might even have served as a mayoral advisor.

Take, for example, the article "On an Amateur Beat," published in 1869. Here Dickens imagines himself to be a constable making the rounds of London. Anticipating the police jargon of making a "collar" by arresting a perpetrator, he writes: "There is many a ruffian on the streets whom I mentally collar and clear out of them, who would see mighty little of London, I can tell him, if I could deal with him physically." On one of his incessant treks around London, he observes a group of "houseless" youths being retrained in a tough religious school. With undisguised admiration, Dickens describes the well-managed parochial institutions, uncluttered by any nineteenth-century London equivalents of 110 Livingston Street. "An annual sum of money," he argues, "freely granted in behalf of these Schools, and shackled with no preposterous Red Tape conditions, would relieve the prisons, diminish county rates [i.e., welfare taxes], clear loads of shame and guilt out of the streets, recruit the army and navy. . . for which their inhabitants would be thankful and beholden to us."

Selected Journalism intrigued me enough to make close examination of Dickens's oeuvre—jour-

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nalism, letters, and, of course, the large shelf of fiction on which his reputation is based. Shining out from them, among other things, is the author's demand for accountability. In "Nobody, Somebody, and Everybody," Dickens speaks of the Charge of the Light Brigade. Let Alfred, Lord Tennyson, boom gloriously, "Theirs not to reason why/ Theirs but to do or die"; Dickens stayed focused on the whos and whys of what was, after all, a catastrophe: "The power of Nobody is becoming enormous . . . and he alone is responsible for so many proceedings, both in the way of commission and omission; he has much to answer for. It was Nobody who made the hospitals more horrible than language can describe, it was Nobody who occasioned all the dire confusion of Balaklava harbor, it was even Nobody who ordered the fatal Balaklava cavalry charge."

MARY EVANS PICTURE LIBRARY

Dickens was friendly to the police and to law and order, and—like his young hero, Oliver Twist (right)—he abhorred criminals.

Concerning the subject of the death penalty, Dickens is no less forthright. He might be George Pataki running for office when he states that capital punishment is necessary "simply because it appears impossible otherwise to rid society of certain members of whom it must be rid, or there is no living on this earth." Dickens may well have influenced an American admirer who regarded him as "this puissant god." In a passage of *Tom Sawyer* that the ACLU would prefer to forget, their hero Mark Twain offers his own word about capital punishment: "The petition had been largely signed; many tearful and eloquent meetings had been held, and a committee of sappy women had been appointed to go in deep mourning and wail around the Governor, and implore him to be a merciful ass and trample his duty under foot. Injun Joe was believed to have killed five citizens of the village, but what of that? If he had been Satan himself there would have been plenty of weaklings ready to scribble their names to a pardon petition, and drip a tear on it from their permanently impaired and leaky waterworks."

Dickens's essay "The Noble Savage" mocks nineteenth-century London's enchantment with Bushmen and Native Americans, along with eighteenth-century Paris's fantasy of primitive innocence. The commentator will have no truck with the Victorian version of political correctness: the Indian's "calling rum fire-water and me a pale face wholly fail to reconcile me to him. I don't care what he calls me. I call him a savage, and I call a savage something highly desirable to be civilized off the face of the earth." Warming to the subject, he cascades on: "It is all one to me, whether he sticks a fish-bone through his visage, or bits of trees through the lobes of his ears, or bird's feathers in his head, or spreads his nose over the breadth of his face, or drags his lower lip down by great weights, or blackens his teeth, or knocks them out, paints one cheek red and the other blue, or tattoos himself, or oils himself, or rubs his body with fat, or crimps it with knives. Yielding to whichsoever of these agreeable eccentricities, he is a savage—cruel, false, thievish, murderous, addicted more or less to grease, entrails, and

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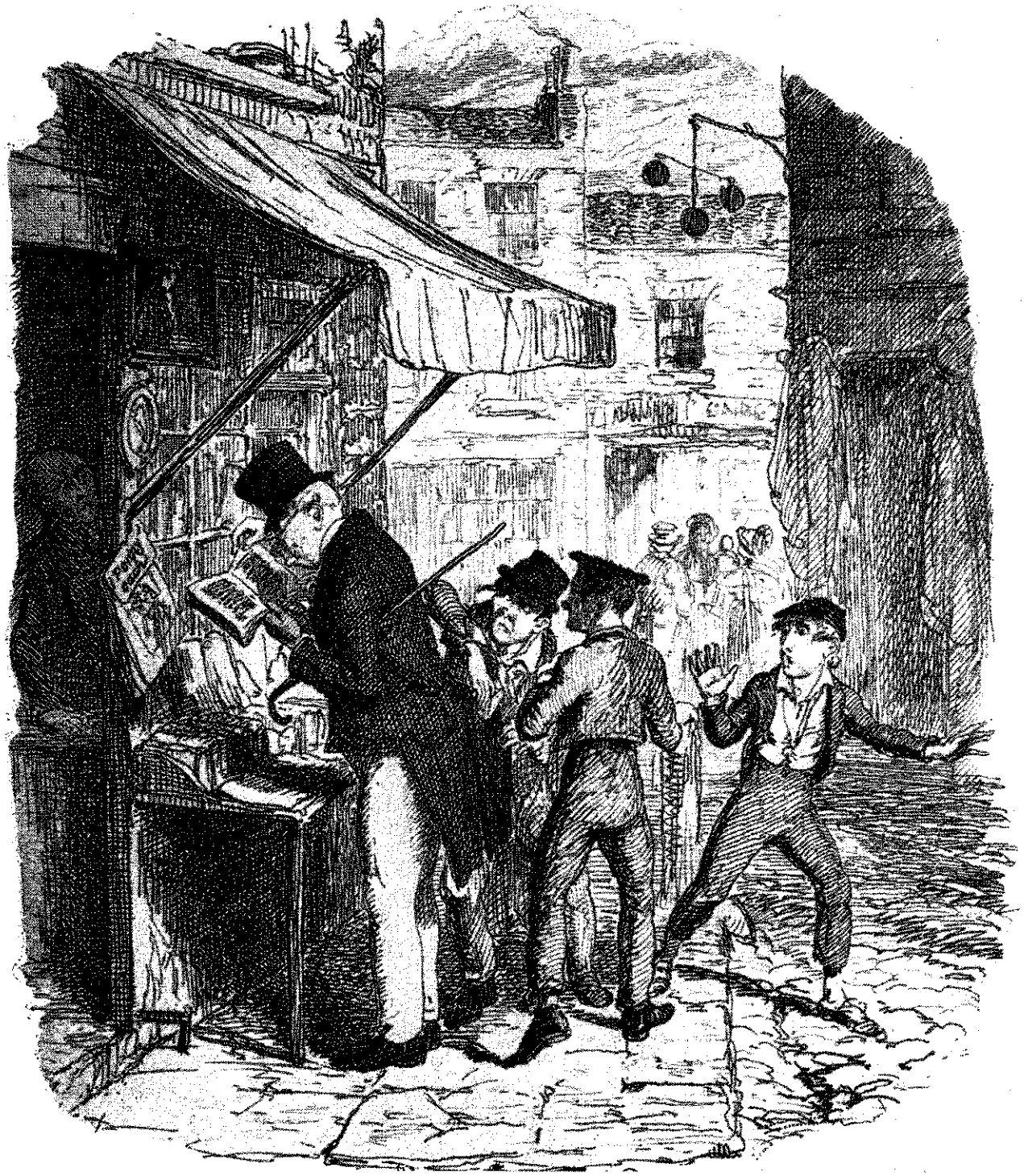
Urbanities



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beastly customs; a wild animal with the questionable gift of boasting; a conceited, tiresome, bloodthirsty, monotonous humbug." Dickens's ultimate judgment: "If we have anything to learn from the Noble Savage, it is what to avoid. His virtues are a fable; his happiness a delusion; his nobility, nonsense."

This is not a man who remonstrates from the sidelines. On another long walk in London after dark, he recalls an encounter with "ruffians"—loud and drunken young men showing off for a loud and drunken young woman. As he follows them, they rend the night air with foul language, much of it aimed at him. A constable suddenly materializes, causing the gang to disperse, save for the female. Dickens demands her arrest for cursing in public. The bobby wonders whether her actions were truly criminal but recognizes the famous writer and complies with his wishes. Meanwhile, Dickens goes home, finds his own well-thumbed copy of the Police Act, and appears at the police station to prove his point and file charges.

CORBIS-BETTMANN

Dickens hated the bumbling that sent the Light Brigade into the valley of Death.

The next morning, the young woman shows up in court, now cleaned up and caparisoned, Dickens notes, as "an elder sister of Red Riding Hood"—thereby implying that the plaintiff is the Wolf. The magistrate harrumphs that his court has better things to do; he wants to dismiss the matter as a nuisance suit. Dickens holds fast and prevails. Ms. Hood is sentenced to ten shillings or ten days. The court's intransigence supplies Dickens with one more example of England's weak judiciary. The onetime courtroom reporter is familiar with the injustice of justice. Far too often, he writes later, the official view appears to hold that "the real offender was the Murdered person; but for whose obstinate persistency in being murdered, the interesting fellow-creature to be tried could not have got into trouble."

Liberal scholars like to picture Dickens as a former radical

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who moved to the right like the minute hand working its way imperceptibly from nine to three, modifying his political beliefs as he grew older and richer. But the portrait will not stand scrutiny. Unlike his father—the model for the improvident Mr. Micawber—Dickens learned the value of self-discipline early in life. His phenomenal energies might easily have been squandered in various indulgences: he was world-renowned and affluent before he hit 30. Yet the famous lines from *David Copperfield* (published when the author was 38) show how closely he would have agreed with Alan Hevesi on the subject of budgets—household and urban: "Annual income twenty pounds, annual expenditure nineteen nineteen six, result happiness. Annual income twenty pounds, annual expenditure twenty pounds ought and six, result misery."

As for a view of urban riots and those who would inflame them, the Novelist vs. the Provocateurs scarcely diverges from the Mayor vs. the Million Youth Marchers. Much of *Barnaby Rudge*, the author's fifth novel, turns on anti-Catholic convulsions instigated in London by Lord George Gordon in 1780. Beyond the customary cast of ebullient and well-differentiated characters—and the inevitable coincidences—*Rudge* is marked by an abhorrence of the rabble roused: "A mob is usually a creature of very mysterious existence, particularly in a large city. Where it comes from or whither it goes, few men can tell. Assembling and dispersing with equal suddenness, it is as difficult to follow to its various sources as the sea itself; nor does the parallel stop here, for the ocean is not more fickle and uncertain, more terrible when roused, more unreasonable, *or more cruel*" (italics mine).

Uriah Heep, hypocrite

The only intelligent answer to such behavior, reasons the author, is the force of law—backed up by police, if necessary, or even by armed militia. Is this the same Charles Dickens who wrote *Oliver Twist*, in which Mr. Bumble calls the law "a Ass, a Idiot"? Is this the same Charles Dickens who wrote *Bleak House*, with this indelible portrait: "The raw afternoon is rawest, and the dense fog is densest, and the muddy streets are muddiest, near that leaden-headed old obstruction, appropriate ornament for the threshold of a leaden-headed old corporation: Temple Bar. And hard by Temple Bar, in Lincoln's Inn Hall, at the very heart of the fog, sits the Lord High Chancellor in his High Court of Chancery"?

It is indeed the same man. The author was quite familiar with the taints and hazards of the court; he knew only too well how crafty barristers could manipulate facts to fit their own agendas. But he recognized that civilization and savagery are separated by a fragile membrane called the legal system, and that without it, the home every Briton regards as his castle would be vulnerable to discord, chaos, and terror. Thus, when Governor Eyre of Jamaica forcefully—but legally—put down a native rebellion, Dickens took exception to the plaints of such intellectuals as John Stuart Mill and Herbert Spencer. Rising in defense of the governor, Dickens called Eyre's actions a "hopeful piece of business."

A few years later, Dickens took a revisionist view of the French Revolution in *A Tale of Two Cities*. Thomas Carlyle viewed the revolt as purifying; William Wordsworth remembered that being alive and young on Bastille Day was "very heaven." The great walker strode in the opposite direction. He acknowledged the profound evils that occurred before and during the regime of Louis XVI. Yet shortly before Karl Marx dreamed the

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Bolsheviks into being, Charles Dickens saw that political revolutions tend to produce mirror images of the oppressors, and that new dictators can be every bit as sanguinary as the rulers they displace: "The men were terrible, in the bloody-minded anger with which they looked from windows, caught up what arms they had, and came pouring down into the streets; but, the women were a sight to chill the boldest. From such household occupations as their bare poverty yielded, from their children, from their aged and their sick crouching on the bare ground famished and naked, they ran out with streaming hair, urging one another, and themselves, to madness with the wildest cries and actions. . . . Numbers of the women, lashed into blind frenzy, whirled about, striking and tearing at their own friends until they dropped into a passionate swoon, and were only saved by the men belonging to them from being trampled under foot."

George Bernard Shaw, not always the most discerning political analyst, has a point when he observes, "Charles Dickens, whose books, though classed as novels and duly hampered with absurd plots which nobody ever remembers, are really extraordinarily vivid parables. All the political futility which has forced men of the caliber of Mussolini and Hitler to assume dictatorship might have been saved if people had only believed what Dickens told them."

102 The novelist favored balanced budgets for nations and for families, like the Micawbers.

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Dickens had no love for the French Revolution and feared its anarchic mobs.

As for Britain's foreign adventures, Dickens again showed a bend to the right, supporting them enthusiastically—provided that the politicians remained firm in their resolve. Alas, they seldom did. In a voice that could have come from a retired U.S. general reminiscing about Desert Storm today, he muses about a treaty with Russia after the British victory at Sevastopol. "Here are its main conditions broken and the whole world laughing at us! I am certain that these men will get us conquered at last, as I am that I shall die. We have been feared and hated a long time. To become a jest after that, is a very, very serious thing. Nobody knows what the English people will be when they wake up at last and find it out."

Well, then, if Dickens feared the mob, disliked the press, and distrusted those who squandered military victories, what remained? Just a few assorted items like tradition, patriotism, honest employment, stable neighborhoods, shared values, the consolations of the fireside, the voices of children, the easy chatter and gossip at dinner, and the intimate celebrations of births and holidays. No writer has ever come close to his appreciations of ordinary family life, the kind of tributes that Hollywood and the Beltway ignorantly deride as a picket fence, Ozzie-and-Harriet fantasy. Dickens knew better. He relished the hearth partly because it represented the security he lacked as a child. But he also clung to the ideal because he knew that nothing emanating from the state or the school can equal the power of responsible parental affection and authority. He knew that these, and these alone, inoculate people from the disease of cultural decline. As he put it, "In love of home, love of country has its rise."

No doubt you have your own nominees in mind for the next election. In the belief that one can never begin too early, I have already prepared my bumper sticker: DICKENS IN 2000. Candidates for the presidency, Senate, Congress, and mayoralty, please copy. •

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Oh, to be in **England**

Tough Love

Theodore Dalrymple

Last week, a 17-year-old girl was admitted to my ward with such acute alcohol poisoning that she could scarcely breathe by her own unaided efforts, alcohol being a respiratory depressant. When finally she woke, 12 hours later, she told me that she had been a heavy drinker since the age of 12.

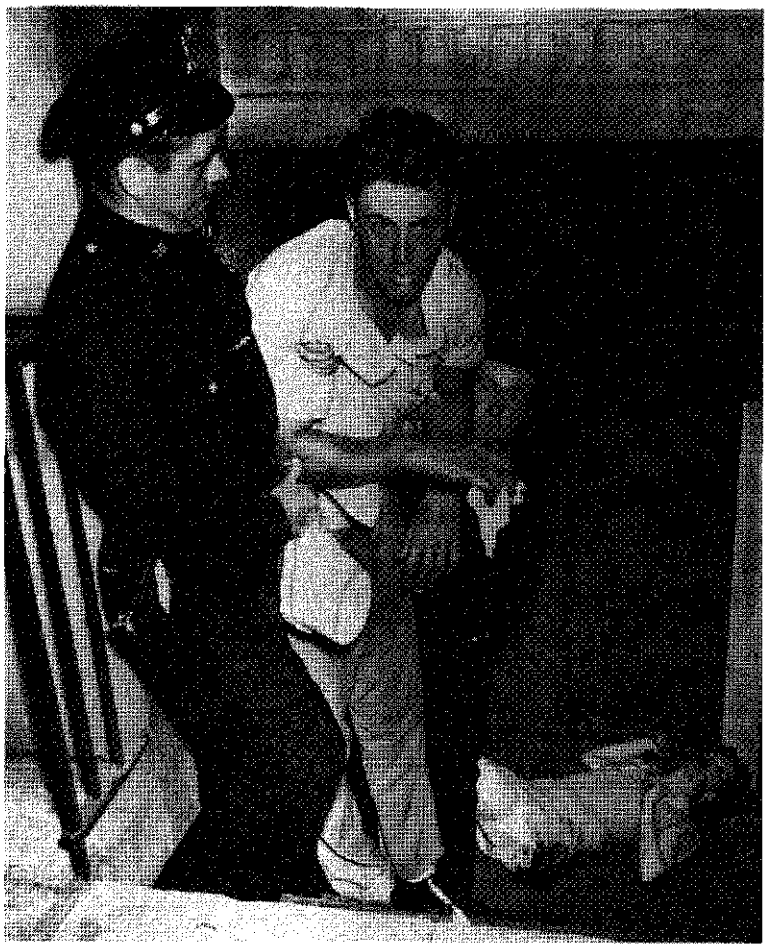
She had abjured alcohol for four months before her admission, she told me, but had just returned to the bottle because of a crisis. Her boyfriend, aged 16, had just been sentenced to three years' detention for a series of burglaries and assaults. He was what she called her "third long-term relationship"—the first two having lasted four and six weeks, respectively. But after four months of life with the young burglar, the prospect of separation from him was painful enough to drive her back to drink.

It happened that I also knew her mother, a chronic alcoholic with a taste for violent boyfriends, the latest of whom had been stabbed in the heart a few weeks before in a pub brawl. The surgeons in my hospital saved his life; and to celebrate his recovery and discharge, he had gone straight to the pub. From there, he went home, drunk, and beat up my patient's mother.

My patient was intelligent but badly educated, as only products of the British educational system can be after 11 years of compulsory school attendance. She thought the Second World War took place in the 1970s and could give me not a single correct historical date.

I asked her whether she thought a young and violent burglar would have proved much of a companion. She admitted that he wouldn't, but said that he was the type she liked; besides which—in slight contradiction—all boys were the same.

I warned her as graphically as I could that she was already well down the slippery slope leading to poverty and misery—that, as I knew from the experience of untold patients, she would soon have a succession of possessive, exploitative, and violent boyfriends, unless she changed her life. I told her



UPI/CORBIS-BETTMANN

One fruit of the sexual revolution in underclass communities

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that in the past few days, I had seen two women patients who had had their heads rammed down the lavatory, one who had had her head smashed through a window and her throat cut on the shards of glass, one who had had her arm, jaw, and skull broken, and one who had been suspended by her ankles from a tenth-floor window to the tune of, "Die, you bitch!"

"I can look after myself," said my 17-year-old.

"But men are stronger than women," I said. "When it comes to violence, they are at an advantage."

"That's a sexist thing to say," she replied.

A girl who had absorbed nothing at school had nevertheless absorbed the shibboleths of political correctness in general and of feminism in particular.

"But it's a plain, straightforward, and inescapable fact," I said.

"It's sexist," she reiterated firmly.

A stubborn refusal to face inconvenient facts, no matter how obvious, now pervades our attitude toward relations between the sexes. An ideological filter of wishful thinking strains out anything we'd prefer not to acknowledge about these eternally difficult and contested relations, with predictably disastrous results.

I meet with this refusal everywhere, even among the nursing staff of my ward. Intelligent and capable, as decent and dedicated a group of people as I know, they seem, in the matter of judging the character of men, utterly, almost willfully, incompetent.

In my toxicology ward, for example, 98 percent of the 1,300 patients we see each year have attempted suicide by overdose. Just over half of them are men, at least 70 percent of whom have recently perpetrated domestic violence. After stabbing, strangling, or merely striking those who now appear in medical records as their *partners,* they take an overdose for at least one of three reasons, and sometimes for all three: to avoid a court appearance; to apply emotional blackmail to their victims; and to present their own violence as a medical condition that it is the doctor's duty to cure. As for our women patients who've attempted suicide, some 70 percent have suffered domestic violence.

In the circumstances, it isn't altogether surprising that I can now tell at a glance—with a fair degree of accuracy—that a man is violent toward his significant other. (It doesn't follow, of course, that I can tell when a man *isn't* violent toward her.) In truth, the clues are not particularly subtle. A closely shaven head with many scars on the scalp from collisions with broken bottles or glasses; a broken nose; blue tattoos on the hands, arms, and neck, relaying messages of love, hate, and challenge; but above all, a facial expression of concentrated malignity, outraged egotism, and feral suspiciousness—all these give the game away. Indeed, I no longer analyze the clues and deduce a conclusion: a man's propensity to violence is as immediately legible in his face and bearing as any other strongly marked character trait.

All the more surprising is it to me, therefore, that the nurses perceive things differently. They do not see a man's violence in his face, his gestures, his deportment, and his bodily adornments, even though they have the same experience of the patients as I. They hear the same stories, they see the same signs, but they do not make the same judgments. What's more, they seem never to learn; for experience—like chance, in the famous dictum of Louis Pasteur—favors only the mind prepared. And when I guess at a glance that a man is an inveterate wife beater (I use the term "wife" loosely), they are appalled at the harshness of my judgment, even when it proves right once more.

This is not a matter of merely theoretical interest to the nurses, for many of them in their private lives have themselves been the compliant victims of violent men. For example, the lover of one of the senior nurses, an attractive and lively young woman, recently held her at gunpoint and threatened her with death, after having repeatedly blacked her eye during the

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previous months. I met him once when he came looking for her in the hospital: he was just the kind of ferocious young egotist to whom I would give a wide berth in the broadest daylight.

Why are the nurses so reluctant to come to the most inescapable of conclusions? Their training tells them, quite rightly, that it is their duty to care for everyone without regard for personal merit or deserts; but for them, there is no difference between suspending judgment for certain restricted purposes and making no judgment at all in any circumstances whatsoever. It is as if they were more afraid of passing an adverse verdict on someone than of getting a punch in the face—a likely enough consequence, incidentally, of their failure of discernment. Since it is scarcely possible to recognize a wife beater *without* inwardly condemning him, it is safer not to recognize him as one in the first place.

This failure of recognition is almost universal among my violently abused women patients, but its function for them is somewhat different from what it is for the nurses. The nurses need to retain a certain positive regard for their patients in order to do their job. But for the abused women, the failure to perceive in advance the violence of their chosen men serves to absolve them of all responsibility for whatever happens thereafter, allowing them to think of themselves as victims alone rather than the victims and accomplices they are. Moreover, it licenses them to obey their impulses and whims, allowing them to suppose that sexual attractiveness is the measure of all things and that prudence in the selection of a male companion is neither possible nor desirable.

Often, their imprudence would be laughable, were it not tragic: many times in my ward I've watched liaisons form between an abused female patient and an abusing male patient within half an hour of their striking up an acquaintance. By now, I can often predict the formation of such a liaison—and predict that it will as certainly end in violence as that the sun will rise tomorrow.

At first, of course, my female patients deny that the violence of their men was foreseeable. But when I ask them whether they think *I* would have recognized it in advance, the great majority—nine out of ten—reply, yes, of course. And when asked *how* they think I would have done so, they enumerate precisely the factors that would have led me to that conclusion. So their blindness is willful.

Today's disastrous insouciance about so serious a matter as the relationship between the sexes is surely something new in history: even 30 years ago, people showed vastly more circumspection in the formation of liaisons than they do now. The change represents, of course, the fulfillment of the sexual revolution. The prophets of that revolution wished to empty the relationship between the sexes of all moral significance and to destroy the customs and institutions that governed it. The entomologist Alfred Kinsey reacted against his own repressed and puritanical upbringing by concluding that all forms of sexual restraint were unjustified and psychologically harmful; the novelist Norman Mailer, having taken racial stereotypes as seriously as any Ku Klux Klansman, saw in the supposedly uninhibited sexuality of the Negro the hope of the world for a more abundant and richer life; the Cambridge social anthropologist Edmund Leach informed the thinking British public over the radio that the nuclear family was responsible for *all* human discontents (this, in the century of Hitler and Stalin!); and the psychiatrist R. D. Laing blamed the family structure for serious mental illness. In their different ways, Norman O. Brown, Paul Goodman, Herbert Marcuse, and Wilhelm Reich joined in the campaign to convince the Western world that untrammeled sexuality was the secret of happiness and that sexual repression, along with the bourgeois family life that had once contained and channeled sexuality, were nothing more than engines of pathology.

All these enthusiasts believed that if sexual relations could be liberated from artificial social inhibitions and legal restrictions, something beautiful would emerge: a life in which no desire need be frustrated, a

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life in which human pettiness would melt away like snow in spring. Conflict and inequality between the sexes would likewise disappear, because everyone would get what he or she wanted, when and where he or she wanted it. The grounds for such petty bourgeois emotions as jealousy and envy would vanish: in a world of perfect fulfillment, each person would be as happy as the next.

The program of the sexual revolutionaries has more or less been carried out, especially in the lower reaches of society, but the results have been vastly different from those so foolishly anticipated. The revolution foundered on the rock of unacknowledged reality: that women are more vulnerable to abuse than men by virtue of their biology alone, and that the desire for the exclusive sexual possession of another has remained just as strong as ever. This desire is incompatible, of course, with the equally powerful desire—eternal in the human breast but hitherto controlled by social and legal inhibitions—for complete sexual freedom. Because of these biological and psychological realities, the harvest of the sexual revolution has not been a brave new world of human happiness but rather an enormous increase in violence between the sexes, for readily understandable reasons.

Of course, even before any explanation, the reality of this increase meets angry denial from those with a vested ideological interest in concealing the results of changes they helped to bring about and heartily welcome. They will use the kind of obfuscation that liberal criminologists so long employed to convince us that it was the fear of crime, rather than crime itself, that had increased. They will say (quite rightly) that violence between men and women has existed always and everywhere but that our attitude toward it has changed (perhaps also correct), so that it is more frequently reported than formerly.

Still, the fact remains that a hospital such as mine has experienced in the last two decades a huge increase in the number of injuries to women, most of them the result of domestic violence and many of them of the kind that would always have come to medical attention. The increase is real, therefore, not an artifact of reporting. About one in five of the women aged 16 to 50 living in my hospital's area attends the emergency department during the year as a result of injuries sustained during a quarrel with a boyfriend or husband; and there is no reason to suppose that my hospital's experience is any different from that of another local hospital, which, together with mine, provides medical attention for half the city's population. In the last five years, I have treated at least 2,000 men who have been violent to their wives, girlfriends, lovers, and concubines. It seems to me that violence on such a vast scale could not easily have been overlooked in the past—including by me.

And there is very good reason why such violence should have increased under the new sexual dispensation. If people demand sexual liberty for themselves, but sexual fidelity from others, the result is the inflammation of jealousy, for it is natural to suppose that one is being done by as one is doing to others—and jealousy is the most frequent precipitant of violence between the sexes.

Jealousy has always been a feature of the relations between men and women: *Othello*, written four centuries ago, is still instantly comprehensible to us. But I meet at least five Othellos and five Desdemonas a week, and this is something new, if the psychiatric textbooks printed a few years ago were right in claiming that jealousy of the obsessive sort was a rare condition. Far from being rare, it is nowadays almost the norm, especially among underclass men, whose fragile sense of self-worth derives solely from possession of a woman and is poised permanently on the brink of humiliation at the prospect of losing this one prop in life.

The belief in the inevitability of male jealousy is one of the main reasons my violently abused women patients do not leave the men who abuse them. These women have experienced three or four such men in succession, and it hardly makes sense to exchange one for

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another. Better the abuse you know than the abuse you don't. When I ask whether they'd be better off without any man at all than with a male tormentor, they reply that a single woman in their neighborhood is seen as an easy prey to all men, and, without her designated, if violent, protector, she would suffer more violence, not less.

The jealousy of the men—and the passion is commoner in men, though women are catching up and becoming violent in turn—is a projection onto women of their own behavior. The great majority of the jealous men I meet are flagrantly unfaithful to the object of their supposed affections, and some keep other women in the same jealous subjection elsewhere in the city and even 100 miles away. They have no compunction about cuckolding other men and actually delight in doing so as a means of boosting their own fragile egos. As a result, they imagine that all other men are their rivals: for rivalry is a reciprocal relationship.

Thus, a mere glance in a pub directed at a man's girlfriend is sufficient to start a fight not only between the girl and her lover but, even before that, between the two men. Serious crimes of violence continue to rise in England, many of them occasioned by sexual jealousy. *Cherchez la femme* has never been a sounder guide to explaining attempted murder than it is today; and the extremely fluid nature of relations between the sexes is what makes it so sound a precept.

The violence of the jealous man is not always occasioned by his lover's supposed interest in another man, however. On the contrary, it serves a prophylactic function and helps to keep the woman utterly in thrall to him until the day she decides to leave him: for the whole focus of her life is the avoidance of his rage. Avoidance is impossible, however, since it is the very arbitrariness of his violence that keeps her in thrall to him. Thus, when I hear from a female patient that the man with whom she lives has beaten her severely for a trivial reason—for having served roast potatoes when he wanted boiled, for example, or for having failed to dust the top of the television—I know at once that the man is obsessively jealous: for the jealous man wishes to occupy his lover's every thought, and there is no more effective method of achieving this than his arbitrary terrorism. From his point of view, the more arbitrary and completely disproportionate the violence, the more functional it is; and indeed, he often lays down conditions impossible for the woman to meet—that a freshly cooked meal should be waiting for him the moment he arrives home, for instance, though he will not say even to within the nearest four hours when he is arriving home—precisely so that he may have an occasion to beat her. Indeed, so effective is this method that the mental life of many of the violently abused women who consult me has focused for years upon their lovers—their whereabouts, their wishes, their comforts, their moods—to the exclusion of all else.

When finally she leaves him, as she almost always does, he regards it as an act of the utmost perfidy and concludes that he must treat his next female companion with even greater severity to avoid a repetition. Observing the fluidity of the sexual relationships around him and reflecting upon his own recent experience, he falls prey to a permanent sexual paranoia.

Worse still, the social trend to these kinds of relationships is self-reinforcing: for the children they produce grow up supposing that all relationships between men and women are but temporary and subject to revision. From the very earliest age, therefore, the children live in an atmosphere of tension between the natural desire for stability and the emotional chaos they see all around them. They are able to make no assumption that the man in their lives—the man they call "*Daddy*" today—will be there tomorrow. (As one of my patients put it when talking of her decision to leave her latest boyfriend, "He was my children's father until last week." Needless to say, he was none of the children's *biological* father, all of the latter having departed long before.)

A son learns that women are always on the point of leaving

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men; a daughter, that men are not to be relied upon and are inevitably violent. The daughter is mother to the woman: and since she has learned that all relationships with men are both violent and temporary, she concludes that there is not much point in taking thought for the morrow as far as choosing men is concerned. Not only is there little difference between them except in the accidental quality of their physical attractiveness to her, but mistakes can be rectified by the simple expedient of abandoning the man, or men, in question. Thus, sexual relationships can be entered into with no more thought than that devoted to choosing breakfast cereal—precisely the ideal of Kinsey, Mailer, et al.

But why does the woman not leave the man as soon as he manifests his violence? It is because, perversely, violence is the only token she has of his commitment to her. Just as he wants the exclusive sexual possession of her, she wants a permanent relationship with him. She imagines—falsely—that a punch in the face or a hand round the throat is at least a sign of his continued interest in her, the only sign other than sexual intercourse she is ever likely to receive in that regard. In the absence of a marriage ceremony, a black eye is his promissory note to love, honor, cherish, and protect.

It is not his violence as such that causes her to leave him, but the eventual realization that his violence is not, in fact, a sign of his commitment to her. She discovers that he is unfaithful to her, or that his income is greater than she suspected and is spent outside the home, and it is only then that his violence seems intolerable. So convinced is she that violence is an intrinsic and indispensable part of relations between the sexes, however, that if by some chance she alights next time upon a nonviolent man, she suffers acute discomfort and disorientation; she may, indeed, even leave him because of his insufficient concern for her. Many of my violently abused women patients have told me that they find nonviolent men intolerably indifferent and emotionally distant, rage being the only emotion they've ever seen a man express. They leave them quicker than they leave men who have beaten and otherwise abused them.

The sexual revolutionaries wanted to liberate sexual relations from all but the merest biological content. Henceforth such relations were not to be subject to restrictive bourgeois contractual arrangements—or, heaven forbid, sacraments—such as marriage; no social stigma was to attach to any sexual conduct that had hitherto been regarded as reprehensible. The only criterion governing the acceptability of sexual relations was the mutual consent of those entering upon them: no thought of duty to others (one's own children, for example) was to get in the way of the fulfillment of desire. Sexual frustration that resulted from artificial social obligations and restrictions was the enemy, and hypocrisy—the inevitable consequence of holding people to any standard of conduct whatsoever—was the worst sin.

That the heart wants contradictory, incompatible things; that social conventions arose to resolve some of the conflicts of our own impulses; that eternal frustration is an inescapable concomitant of civilization, as Freud had observed—all these recalcitrant truths fell beneath the notice of the proponents of sexual liberation, dooming their revolution to ultimate failure.

The failure hit the underclass hardest. Not for a moment did the sexual liberators stop to consider the effects upon the poor of the destruction of the strong family ties that alone made emergence from poverty possible for large numbers of people. They were concerned only with the petty dramas of their own lives and dissatisfactions. But by obstinately overlooking the most obvious features of reality, as did my 17-year-old patient who thought that men's superior physical strength was a socially constructed sexist myth, their efforts contributed in no small part to the intractability of poverty in modern cities, despite vast increases in the general wealth: for the sexual revolution has turned the poor from a class into a caste, from which escape is barred so long as that revolution continues. •

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Letters

Equal School Spending? Try Vouchers

To the editor:

William A. Fischel rebukes those judges who impose their personal solutions upon the structure of school finance ("How Judges Are Making Public Schools Worse," Summer 1998). My quarrel with him concerns only the history with which he supports this complaint. He has innocently misdescribed the rule adopted in *Serrano* v. *Priest*, thereby exaggerating its role in developments that followed inside and outside California. Curiously, this trashing of a mythical *Serrano* was unnecessary and even irrelevant to his general complaint against the judges. The feckless New Jersey court and Fischel's other judicial villains all adopted intrusive legal theories that had been rejected in the more modest California decision.

FPG

Serrano did *not* hold anything like the proposition that "expenditures . . . could not vary among school districts." Nor had "*Serrano* . . . severed the fiscal connection between local taxes and schools." The opinion expressed no interest in uniformity of spending, nor did it forbid the use of the property tax. The court permitted any district to outspend its neighbors to the extent that it is willing to bear higher tax rates. *Serrano* is a juridical version of the Protestant ethic; gain is a function of pain. The state is free to create a linear relation between local effort and spending, and it might use either the property tax or an income tax—each locally chosen—to measure that effort. It could even employ the individual family in effect as the school district, allowing parents to value education differently in either public or private schools.

Of course the state could instead preempt local control, as California chose to do in the infamous Proposition 13. Fischel makes *Serrano* the specific cause of Prop. 13. This could imaginably be so, if the voters somehow shared Fischel's own misconception of what *Serrano* said. And such confusion is barely possible. The media did its best in 1977 to transmogrify *Serrano* into a principle of equalized spending; virtually no public commentator grasped the crucial distinction. No doubt this false but *apparent* holding of the case influenced some votes one way or the other. That is the most one can say for Fischel's premise, which, in any event, seems unnecessary to his principal complaint about those judges in other states who did indeed overreach.

By the way, in designing the *Serrano* strategy, Clune, Sugarman, and I gave a certain weight to the "Tiebout hypothesis," which conceives local agencies of the state as a proxy for the market. The trouble is that the Tiebout concept lacks moral dimension in its application to schools. The particular good that is at stake (education) is compulsory; most families cannot afford to opt out of the public school monopoly or move to a fancy district; and the relevant consumers are children. Taxes and school quality may be capitalized in the price of homes, but this does not remedy the injustice to those chil-

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Letters

dren who must attend schools in poor districts.

All these problems can be solved by further decentralization. Even before 1970 many of us had concluded that the ideal "school district" is the family. The *Serrano* argument thus was designed to accommodate and encourage those systems of subsidized family choice that now seem the primary hope for education. I am gratified that Fischel reproaches the activist judges, but today the real show is elsewhere and may be coming soon to your neighborhood school.

John E. Coons
Berkeley, Calif.

William Fischel responds:
One *can* read California's *Serrano* decision as a property-tax-base sharing scheme, as Jack Coons still insists it was, rather than a judicial ukase requiring equal spending. But, as he concedes, "virtually no public commentator grasped the crucial distinction." It was not just the media that disagreed with Coons's interpretation. His Berkeley colleagues Lee Friedman and Michael Wiseman concluded in an exhaustive 1978 article in the *Harvard Educational Review* that *Serrano* could only be complied with by equal spending per pupil. The California Legislature's compliance with *Serrano*'s obviously equalitarian intent made Proposition 13 almost inevitable.

I am pleased that Coons favors vouchers. School choice and competition are always good things. But I don't see why he is still married to the idea that unequal tax bases must be the first focus of reform. It's puzzling—like the occasional liberal who says she likes capitalism but opposes private property.

Differences in property tax bases are a necessary condition for the practical application of the Tiebout model, in which families shop around for homes among school districts. The American approximation of Tiebout's model offers both school choice and competition among districts, much like vouchers. It goes further and—here is the crucial point—provides rewards for local voters to support good schools: if the schools improve as the result of locally financed improvements, voters' home values go up. (As a former zoning board chair, I can assure you that nothing grabs voters' attention like the value of their homes.) Coons's fiscal reform would eliminate that important reward for local effort. His other reform—state-financed vouchers—would be a useful supplement to local financing in poor or poorly performing districts, but it is counterproductive first to throw out local fiscal incentives.

The morality of the American version of the Tiebout system is best measured against the alternative that is being produced by the litigation inspired by *Serrano*. The Serranistas' alternative is not vouchers. It is a system that is increasingly run by the state, one in which bureaucrats and teachers' unions call the shots and from which ordinary voters are alienated. The evidence suggests that the biggest losers in such a system are the poor kids that Jack Coons was so sincerely interested in helping.

Public Health Quackery, Pro and Con

To the editor:
As a student at the Columbia School of Public Health, I find Heather Mac Donald's article "Public Health Quackery" (Autumn 1998) a dangerous misrepresentation of public health's purpose and direction. Mac Donald's analysis is reductionist and political.

Nine out of ten of the world's 33.4 million individuals with AIDS are without access to life-extending drugs. In the U.S. the number of new HIV diagnoses has increased among women and minorities in recent years: women now comprise 22 percent of reported AIDS cases; African-Americans—12 percent of the population—make up 43 percent; while African-Americans and Hispanics together represent 66 percent. Is it possible that the disproportionate impact of the HIV/AIDS pandemic on the poor, on minorities, and increasingly on women is due simply to the "bad decisions" of individuals, as Heather Mac Donald claims?

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Letters

The evidence is overwhelming. HIV/AIDS has become a disease of people at the margins of society in the U.S. and around the world. The connection between social justice and health is clear and has been recognized since the time of Plato. Public health efforts to incorporate context in the understanding of individual behavior are essential. More importantly, public health has always been a field that addresses the interplay between the individual and society. Public health is just that—*public* health: calling it "quackery" misrepresents the work and dedication of professionals and further endangers the health of the most vulnerable segments of the population.

E. Tyler Crone
New York, NY

Heather Mac Donald responds:
If ever there were a disease that, with a few tragic exceptions, results from identifiable "bad decisions," such as promiscuity and drug use, AIDS is it. Unlike cancer, the path of transmission for HIV is well understood and avoidable. The real betrayal of public health's great legacy comes from using it as a platform for identity and victim politics, rather than trying single-mindedly to persuade both the infected and the non-infected to act responsibly.

To the editor:
I just finished reading Heather Mac Donald's article on "Public Health Quackery." It brought back the old days for when I believe we handled syphilis and other venereal diseases properly.

Your public health "professors" certainly get around. Nancy Krieger's escapades back in 1994 regarding the link between breast cancer and pesticides resulted in one of the top cancer-related news stories of the year. Needless to say, the pesticide-breast cancer relationship remains to be proven.

The place to study DDT and breast cancer would be India. Their population had at one time one of the highest blood levels of DDT, and should by now have had a massive epidemic of breast cancer. This of course has not materialized.

My congratulations for a very fine article.

Stephen S. Sternberg, M.D.
Attending Pathologist
Memorial Sloan-Kettering Cancer Center

Bronx Beep's Bombers Plan

To the editor:
I read with interest Sol Stern's article "No to Sports Stadium Madness" in your Autumn 1998 issue. While I appreciate the concerns raised regarding the Mayor's West Side proposal, a comment concerning my Yankee Stadium plan requires correction. As you correctly note, the total price tag for Yankee Village is $535 million. The city's share, however, is projected to be only $175 million, one-third of that amount. Private entities will finance 55 percent of the cost, or $295 million, through business investment, corporate sponsorship, and naming rights. The remaining $65 million will come from state and federal transportation infrastructure programs.

The actual renovation of Yankee Stadium is expected to cost just $189 million and will include 120 luxury suites, full modernization, and major architectural enhancements.

The Yankee Village Plan also includes $32 million for local community parks and $37 million to prepare the Bronx Terminal Market site for a developer-financed regional shopping center. The public expenditures are strategically designed to have Yankee Stadium serve as the centerpiece and stimulus for a large-scale economic development project offering both local and citywide benefits.

Fernando Ferrer
Bronx Borough President

Sol Stern responds:
I regret that my article inadvertently gave the impression that Borough President Ferrer's stadium plan called for the city picking up the entire $500 million cost. Let's assume that the borough president's projection of a $175 million city contribution holds up—a big assumption given the city's history of huge cost overruns. My principled point remains, however, that no

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public monies should be spent for a new stadium that would make a rich private business even richer. For the Bronx, in particular, there are far better uses for that putative $175 million. Why not use it to start up 100 charter schools and liberate thousands of Bronx children from the wretched public schools they are now forced to attend?

Tweens Come of Age

To the editor:
As if on cue, I read Kay Hymowitz's piece on "Tweens" (Autumn 1998) just before going to Shabbat morning services. The Bat Mitzvah celebrant did a lovely job chanting her assigned portion of the liturgy.

What a shock, then, when she stepped down from the *bimah*, removed her *tallit*, and revealed a tight-fitting sleeveless black dress with a high hemline, cut very low in back. The celebrant's "tweenage" friends all made similar fashion statements.

The celebrant's parents earlier had showered their daughter with the usual litany of superlatives, in particular praising her "intense competitiveness" both in the classroom and on the playing field and describing how much "fun" it is to raise her. About her moral sensibilities, her wisdom, or her *menschlikeit*, there was not a word said.

As Hymowitz so accurately points out, the herd mentality in our hypersexualized, celebrity-addicted consumer culture steamrolls both children and their parents. These cultural pressures are nearly irresistible, even for the well-intentioned. In our own family, we have put away the television, and we quickly recycle the advertising pages from *The New York Times Sunday Magazine*. It's not much, but at least it's a start.

Harold Karabell
St. Louis, Missouri

Da Mayor vs. the Cockroaches

To the editor:
Thank you for your recent article on San Francisco ("Willie Brown Shows How Not to Run a City," Autumn, 1998). I agree with everything you said.

Your piece neglected to mention that Mayor Brown promised to fix MUNI (our transit system) within 100 days of taking office. It's been three years, and the system is worse than ever. Last August, MUNI introduced its new computerized street car control system: the entire system crashed. Twenty (out of approximately 100) of the street cars cannot even be hooked up to the new system. Controllers lacked basic computer literacy to run the system, but the city couldn't hire new ones because of union regulations. What's more, MUNI drivers can take eight unscheduled days off without even calling in sick.

And consider the reconstruction of the Bay Bridge: after eight years of bickering over design and over who will pay for the earthquake retrofit, the local Metro Transit Agency approved a design so that construction would start this year. But wait! Willie Brown, Mayor-Elect Moonbeam Brown of Oakland, and the Mayors of Berkeley and Emeryville placed an initiative on the ballot directing the state to study devoting two of the ten bridge lanes to a train line. This lunacy will double the cost of the bridge and require a total redesign.

Keep up the good work.

Martin J. Slavin
San Francisco, California

Brian C. Anderson responds: *City Journal* left out MUNI's considerable troubles for reasons of space, and because those troubles weren't fully Willie Brown's doing but preceded him. One could write a book about San Francisco's government-spawned craziness, and MUNI horror stories are so numerous that an entire website is devoted to chronicling them. But Brown has done little to make MUNI run more smoothly, and he coddles already-pampered transport workers. (At one point, the mayor crowed that he had made MUNI cockroach-free, which is something, I guess.)

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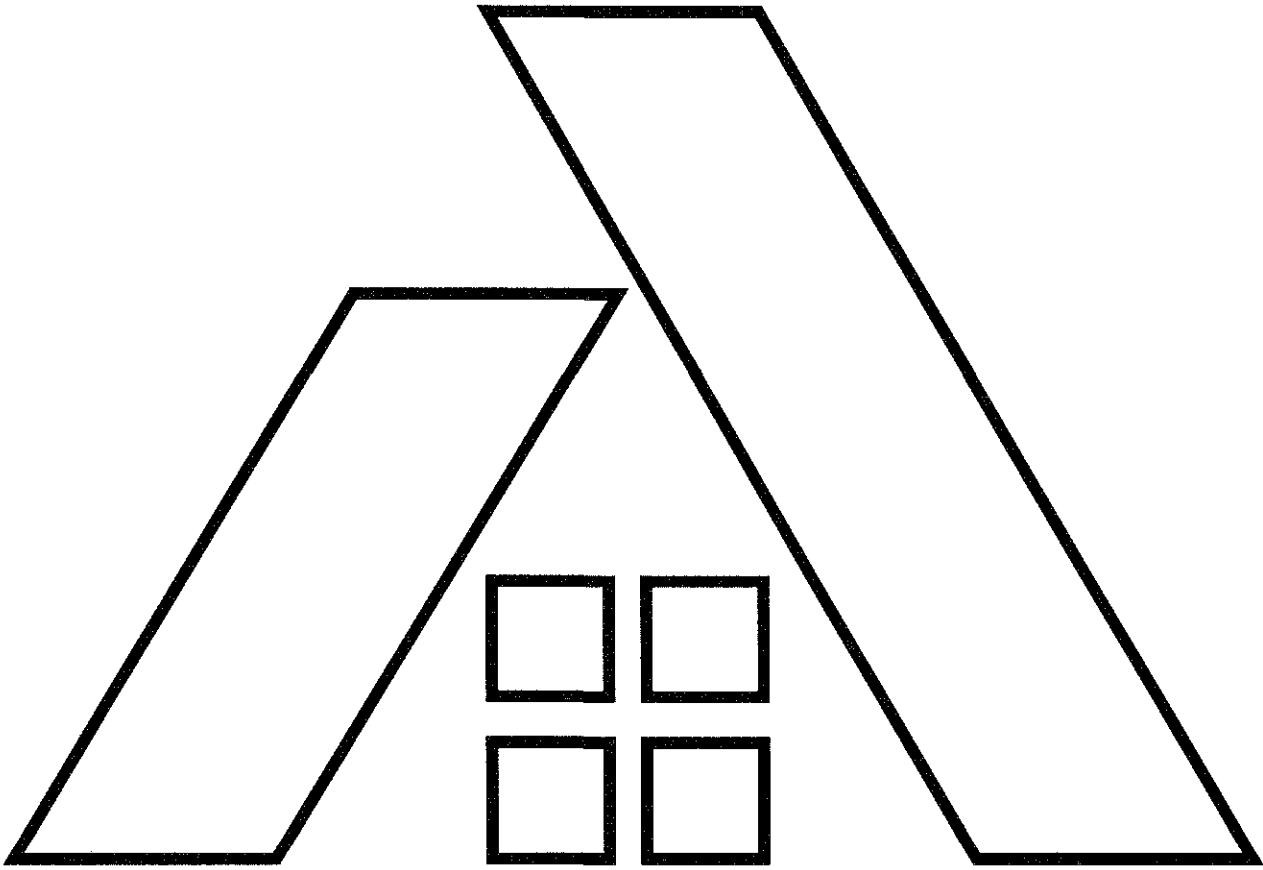

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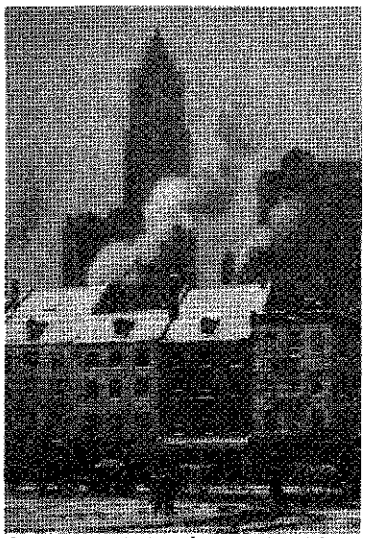
Sol Stern, a contributing editor of *City Journal*, has written for *Commentary* and the *Wall Street Journal* and has served as a policy analyst for the governments of New York City and New York State.



Our cover painting shows a detail from *Manhattan Contrast, New York City*, by Everett Longley Warner, ca. 1917. Collection of the New-York Historical Society.

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Academic Freedom

John Leo

On a sunny November Saturday, when I showed up at Columbia University to give a speech, I learned that our sponsor had canceled my talk and five others. This announcement came from one of the five security men blocking the entrance to Faculty House—more security than seemed needed if the speeches weren't happening.

Accuracy in Academia (AIA) had brought the six speakers, including author Dinesh D'Souza and SUNY trustee Candace de Russy, to campus. The Columbia cops at first couldn't explain why the group would cancel its own speakers after months of planning. But prodded, they revealed that the speakers were off campus on Morningside Drive.

As I walked up, D'Souza was calmly finishing his talk. Protesters yelled about racism and tried to drown him out. One protester recognized me and silently mouthed the words, "I'm sorry"—sorry that supporters of race and gender preferences had set out to drive the conservative speakers off campus and, with Columbia president George Rupp's help, had succeeded.

Our speeches were to be the second half of a two-day event entitled "A Place at the Table: Conservative Ideas in Higher Education," which opened with a dinner talk by Ward Connerly, leader of successful anti-affirmative-action referenda in California and Washington State. Letters to the campus newspaper warned that "racists" were coming, so 250 protesters arrived at Faculty House to denounce Connerly as an Uncle Tom. One demonstrator suggested that the crowd storm the building. Nobody did, but university officials expressed deep concern about the safety of Saturday's speakers.

This concern pushed the six speakers off campus. Officials said they had no idea that AIA had invited students from other colleges. What if 500 people, some of them perhaps disruptive, showed up to fill a 200-person hall? A Friday night hand-wringing session at President Rupp's home ensued.

Did the university move the event to a larger hall, or simply let the speakers address the crowd in Columbia's huge quadrangle? No. That would make too much sense. Instead, Rupp authorized cops to shrink the Faculty House crowd by banning everyone without Columbia I.D.—which meant turning away non-Columbia invitees, many of whom had paid for tickets. Concluding that the administration was just jerking them around, AIA said no thanks, and moved the talks to Morningside Drive.

For its part, the administration suggested that AIA acted irregularly by not clearing its program with university officials or finding a sponsor among approved student groups—an updated version of the "outside agitators" reaction to unwanted ideas. Faculty House's director responded that his building is a public facility and had rules that forbade screening based on a renter's philosophy. The demonstrators knew that censorship had just been imposed. Said Roxanne Smith, president of the Black Students Association: "I thought it was great. They were entirely dislocated."

This is mainstream opinion on campus these days: you show distaste for intellectual opponents by blocking speeches and stealing newspapers, not by debating with them. Freedom of speech has no value. Today's students' belief that some ideas are so awful that they deserve suppression comes from sixties guru Herbert Marcuse's notion of "repressive tolerance," as Alan Kors and Harvey Silverglate show in their book, *The Shadow University*. Students shouldn't be exposed to "spurious neutrality," Marcuse thought, but instead trained in progressive ideas—which meant silencing non-progressive ideas. The modern university happily complies.

Columbia's action—using safety concerns to squelch unwanted speech—is a sophisticated version of the heckler's veto. Great universities don't behave this way. If Columbia wants to retrieve its honor, it should make sure that the conservative speakers are invited back. If it doesn't, the lesson is clear: unpopular speakers can be driven off campus—with administration connivance. ●

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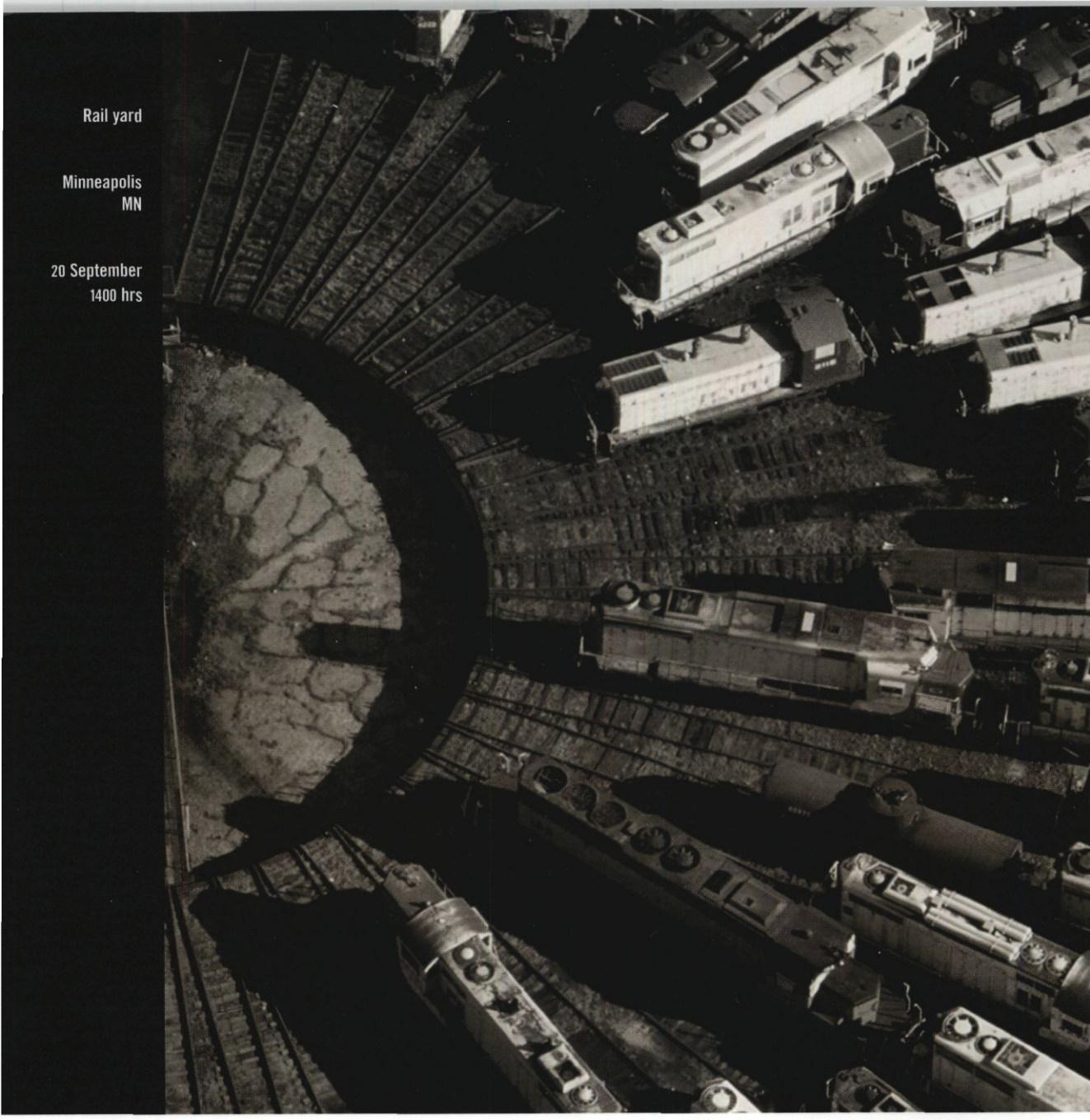

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